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STAUNTON, ROSSIN, GARRISH, AND FRANCIS NOMINATIONS

HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

NINETY-NINTH CONGRESS

SECOND SESSION

ON THE

NOMINATIONS OF MARSHALL A. STAUNTON TO BE ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY; A. DAVID ROSSIN TO BE ASSISTANT SECRETARY FOR NUCLEAR ENERGY, DEPARTMENT OF ENERGY; THEODORE J. GARRISH TO BE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM; AND RICHARD H. FRANCIS TO BE PRESIDENT, SOLAR ENERGY AND ENERGY CONSERVATION BANK, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

JULY 15, 1986

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STAUNTON, ROSSIN, GARRISH, AND FRANCIS NOMINATIONS

TUESDAY, JULY 15, 1986

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The committee met, pursuant to notice, at 10:26 a.m., in room SD-366, Dirksen Senate Office Building, Hon. James A. McClure, chairman, presiding.

Present: Senators McClure, Domenici, Wallop, Nickles, Evans, Johnston, and Ford.

Also present: E. David Doane, senior counsel; Richard D. Grundy, senior professional staff member; and D. Michael Harvey, chief counsel for the minority.

OPENING STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

The CHAIRMAN. The committee will come to order. At today's hearing we will consider four Presidential nominations, Marshall A. Staunton to be Administrator of the Economic Regulatory Administration, A. David Rossin to be Assistant Secretary of Energy for Nuclear Energy, Theodore J. Garrish for the position of Federal Inspector of the Alaska Natural Gas Transportation System, and Richard H. Francis to be President of the Solar Energy and Energy Conservation Bank.

Our first witness is Mr. Staunton, who has been serving as Acting Administrator of the ERA since October of last year.

The ERA was established in 1977 as a part of the newly created Department of Energy. The duties of the Administrator are delegated by the Secretary of Energy and consist of implementing a number of DOE programs.

For example, a major responsibility of the ERA is to authorize and regulate imports of natural gas. Also, the Administrator is responsible for completing the litigation and settlement process relating to the enforcement of the petroleum pricing and allocation regulations that were in effect prior to the decontrol of crude oil and petroleum products in January 1981.

Before his appointment as Acting Administrator, Mr. Staunton was Deputy Administrator of Enforcement at the ERA. He was counsel for the Bechtel Power Corp. from 1974 to 1985, and prior to that he was in the private practice of law.

Mr. Staunton also served as an officer in the U.S. Marine Corps from 1951 to 1954. He attended Brown University where he re-

ceived his bachelor's degree, and he obtained his law degree from Stanford University.

Mr. Staunton, if you will step forward, please, and stand and raise your right hand. The rules of the committee require that all witnesses be sworn before confirmation.

[Whereupon, Marshall A. Staunton was duly sworn by the chairman.]

The CHAIRMAN. Please be seated. I might note before proceeding on the standard questions that we ask of all witnesses who are sworn before us on nominations, I might just note that you have with you this morning your wife and two daughters.

If you would please identify them, we would be very proud to have them here with us.

Mr. STAUNTON. Thank you very much, Mr. Chairman. Sitting right behind me are my daughters and wife. In the middle with the hat is my wife Arby. In the pink is my daughter Melissa. And in the light pink is my daughter Jocelyn.

The CHAIRMAN. We are very glad to have you with us this morning.

As you know, probably, we do require that to all witnesses before us who are nominated for a position requiring confirmation, we ask four questions, and I would like to ask these questions of you.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. STAUNTON. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Mr. STAUNTON. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. STAUNTON. My investments, personal holdings, and other interests have been reviewed by myself and the appropriate ethics counselors within the Federal Government.

I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interests or appearances thereof to my knowledge.

The CHAIRMAN. Are you involved in or do you have any assets held in blind trusts?

Mr. STAUNTON. No.

The CHAIRMAN. You may proceed with your statement.

STATEMENT OF MARSHALL A. STAUNTON, NOMINEE TO BE ADMINISTRATOR, ECONOMIC REGULATORY ADMINISTRATION, DEPARTMENT OF ENERGY

Mr. STAUNTON. Mr. Chairman, it is an honor and a privilege to be present here before you as the nominee of the President of the United States to be Administrator of the Economic Regulatory Administration.

I hope to serve in that capacity and, if confirmed, I will look forward to working with Secretary Herrington to carry out the responsibilities of that position and the responsibilities of the ERA.

As you have defined in your opening statement, the ERA is responsible for the enforcement of the oil price regulations which were enacted under the Emergency Petroleum Allocation Act of 1973 and which were in force until 1981 when President Reagan decontrolled the prices on petroleum products.

The second responsibility is the administration of the Coal Conversion Program under the Power Plant and Industrial Fuel Use Act of 1978 and the administration of the natural gas and electricity import and exports.

In those capacities I see it is my responsibility to complete the enforcement activities under the Emergency Petroleum Allocation Act which have generated so much activity, legal activity since their inception, and to carry out the President's guidelines on the energy import regulations with respect to natural gas.

Regarding the Fuel Use Act, it is the position of the department that the Fuel Use Act is obsolete and is a burden on both the economy, the Government, and private industry and should be repealed.

To demonstrate the activities which have taken place since my assuming the position of Acting Administrator, there are three major points of achievement that I wish to point out, not claiming credit for myself, but for those in the department and in the agency who have carried those out and for the demonstration of the guidelines and their effect over a period of time.

The first case I wish to point to is the *Exxon* or *Hawkins Field* case, which was a litigated case in the enforcement field which culminated in the collection of over $2 billion, which sums were distributed to the States pursuant to the Warner amendment provisions.

Those were conservation programs which are utilized by the States within each State.

The second specific example is the settlement just recently on July 7 of the *Stripper Well* case, which involved approximately $1.43 billion and which results in payments being made directly to injured parties, refiners, airlines, farmers, retailers, wholesalers and the States and Federal Government and, finally, to the continued downtrend in the price of natural gas which has resulted in no small part to a consistent application of a policy of letting the marketplace determine the price and the consumer choose those prices which he deems to be the most effective.

I want to assure the committee and each of its members that I intend to carry out these responsibilities consistent with the way they have been done in the past, and I will serve in a way which is

in the public interest and will reflect credit on myself, the President and this committee.

If confirmed I will seek the advice, support, and understanding of this committee.

I will be pleased to answer any questions the committee may have.

[The prepared statement of Mr. Staunton follows:]

Statement of Marshall A. Staunton

Nominee for the Position of

Administrator of the
Economic Regulatory Administration
Department of Energy

Before the

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

July 15, 1986

Mr. Chairman and members of the Committee, it is a great honor to appear here today as President Reagan's nominee for Administrator of the Economic Regulatory Administration at the Department of Energy.

If confirmed by the Senate, I look forward to serving with Secretary Herrington in carrying out the statutory duties conferred on the Economic Regulatory Administration. As a way of background, I have held a number of positions in the private sector, including a private law firm in San Francisco and the Bechtel Group, Inc., where I served as Legislation and Services Counsel. In 1985, I joined the Department of Energy and served in the newly established position of Deputy Administrator for Enforcement in the Economic Regulatory Administration. Last October, I was named as Acting Administrator of ERA.

The Economic Regulatory Administration (ERA) is responsible for the enforcement of pricing and allocation regulations of the Emergency Petroleum Allocation Act of 1973 (EPAA) and the Economic Stabilization Act that governed the petroleum industry from August 1973 until its decontrol by President Reagan in January 1981. In addition to its EPAA enforcement activity, the ERA currently administers the coal conversion program pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA), and the natural gas and electricity import and export licensing programs.

The first priority facing the Administrator of ERA is the successful completion of the enforcement program and the cases which remain from the EPAA pricing and allocation regulations. The second priority of the Administrator is to carry out the President's Energy Policy in the licensing of import and export of natural gas. I will, if confirmed, endeavor to carry out these objectives with dedicated leadership.

As to the enforcement program, it would be my goal to first complete the case development stage by the end of the year. This objective is both reasonable and consistent with available resources. Second, if confirmed, I intend to ensure that ERA vigorously prosecutes all overcharge violations through administrative or judicial tribunals adopting streamlined procedures. Third, when consistent with the public interest, it would be my intention to resolve cases by negotiation.

I bring to the position of Administrator 20 years of extensive experience in private practice and as corporate counsel, managing highly complex functions of a large domestic and international corporate legal department. I believe this experience will enable me to meet the enforcement challenges facing the Administrator of ERA in the future.

With regard to the natural gas and electricity export and import licensing programs, first, if confirmed, I intend to follow the DOE's policy guidelines on natural gas imports. This policy

reflects a belief that "competitive import arrangements are an essential element of the public interest," and that the parties to commercial arrangements, if permitted to negotiate free of government restraints, will structure competitive arrangements which will be market-responsive over their term. As for cases associated with implementation of the Fuel Use Act, if confirmed, it is my intention to continue processing these cases, which allow for exemptions from the constraints of the Act. However, I support the repeal of this Act. The law, passed in 1978, is obsolete and an unnecessary burden on both government and industry, and ultimately leads to higher costs for consumers.

To these areas of ERA activity, I bring a year of experience within the agency. As Acting Administrator I have met with a variety of individuals and associations involved with the natural gas, coal, and electricity industries including officials from importing and exporting nations and others responsible for industry regulation at all levels of government. Further, through the processing of natural gas import and electricity import applications I have gained insight into the functioning of the North American energy markets and the impacts these decisions and this Administration's policies have on our economy.

I would like to highlight briefly how I would proceed with regard to the major ERA program responsibilities. The enforcement program activities will continue to receive most of ERA's resources and my attention. As mentioned, my basic policy, if confirmed, will be to continue a vigorous program of litigation and negotiated case

settlement. Resources will be concentrated on case resolution activities. We have recently consolidated several ERA enforcement functions relating to administrative and judicial litigation activities in one single office, the Office of the Solicitor. This was done to increase our productivity and effectiveness. I also intend to allocate resources in a manner which will follow a strategy of working on cases on a priority based upon potential for litigation or settlement resolution and the magnitude of alleged violation. Let me assure this Committee, cases will be pursued and, if not settled, then vigorous litigation will follow until resolved.

In the area of Fuels Programs, natural gas, electricity, and the Fuel Use Act activities, I intend to follow the policy directions mentioned and seek ways to expedite the time required to reach decisions in these cases which will minimize the burden on both the industry and government consistent with the law.

In closing, I want to assure this Committee of my determination to carry out the responsibilities of the Administrator in a manner which will serve the public and reflect credit upon myself, the President and this Committee. If confirmed, I will seek the advice, support and understanding of this Committee and other members of Congress as I undertake this responsible task.

I will be happy to answer any questions you might have.

The CHAIRMAN. Thank you very much.

What is the status of the remaining petroleum overcharge cases?

Mr. STAUNTON. There are three categories of cases, Mr. Chairman, that you should know about. One is case development; second is administrative litigation; and third is traditional litigation, those cases which are actually in court.

With respect to those cases, we have remaining 58 cases yet to be finally determined as to whether or not a proposed remedial order will be issued. We have 163 cases in administrative litigation, and we have 149 cases in judicial litigation.

The CHAIRMAN. How does that compare with the condition at the start of this fiscal year last October?

Mr. STAUNTON. It shows a drop of approximately 60 cases in each category, Mr. Chairman.

The CHAIRMAN. What is their approximate value in terms of a reasonable estimate of what DOE can actually collect?

Mr. STAUNTON. We are estimating that the collection figure of the remaining cases to be approximately $2 billion.

The CHAIRMAN. How does that compare to an estimate made, say, at the start of the fiscal year?

Mr. STAUNTON. Well, we have always estimated that the amount to be collected was somewhere in the neighborhood of $8.2 billion.

With the collection of stripper well funds, that will bring us to just under $6 billion. So we are virtually three-quarters of the way through with our collection activities and the activities of the program.

The CHAIRMAN. What is your estimate of the time it will take to settle or litigate the remaining cases?

Mr. STAUNTON. The experience, and now I am speaking from historical experience and from the experience that I have had in measuring when you put the input of negotiated settlements, we estimate that it would be between 4 and 5 years, possibly even 6 years, to complete if you litigate the cases.

If you negotiate the cases and revolve them, as we indicate, we anticipate that the period will be considerably less.

The CHAIRMAN. Are they being settled or completed more rapidly or less rapidly this year as compared to last year?

Mr. STAUNTON. We think more rapidly. For example, take the case of the *Stripper Well* case, by that one resolution of a case we settled 42 cases alone.

The CHAIRMAN. Senator Ford.

Senator FORD. Mr. Chairman, I want to follow along the same line, if I may. One problem that bothers me some, I guess, does the administration or do you have any view as to the constitutional limitation on Congress, particularly its authority to legislate an oil overcharge settlement?

Mr. STAUNTON. Until the *Stripper Well* settlement, Senator, we thought Congress not only had full and plenary authority, but without any restrictions at all.

What effect the court decision in *Stripper Well* has, I have not had an opportunity to study and do not know.

Senator FORD. Many believe, and I guess that is where you are now, that once a court renders a final judicial decree in a case distributing oil overcharge funds, then legislation enacted to render a

different result would probably be unconstitutional as a violation of the separation of powers, do you agree with that?

Mr. STAUNTON. Certainly, I understand the principle which is being enunciated, but I can't say because I really haven't researched the question, Senator, and I just don't know.

It is a complex issue. I know that for sure.

Senator FORD. I wish you would because it is going to be vital on reconciliation, I think, with this committee. And we have been, I guess, as Concurrent Resolution 120, the budget resolution for the fiscal year 1987, instructs the Senate Committee on Energy and Natural Resources to report changes in law sufficient to save a set amount of dollars, and that is just in fiscal year 1987 alone, and with the assumption that most of these savings would be achieved by capturing oil overcharge funds for the Treasury.

I guess it was just last week or two, around the first part of this month anyhow, that the district court in Kansas entered a judgment as to the final settlement of the Department of Energy's *Stripper Well* case that you have just elaborated on.

This settlement addresses a distribution of all moneys collected, I guess, from crude oil overcharge cases, including all cases that will be brought in the future.

Now, will that be the last of that or will the district court's decision be appealed?

Mr. STAUNTON. I can't speak for whether it will be appealed or not. I understand that all of the parties in that litigation had consented or had withdrawn their objections to the settlement.

It is my understanding that at present there are going to be no appeals from that particular approval of the settlement agreement.

Senator FORD. And that is the 42 cases that you referred to in that one judgment were settled?

Mr. STAUNTON. That is correct.

Senator FORD. I am kind of interested in the impact of this settlement on the kinds of legislation the committee might pass to capture oil overcharge moneys as assumed in the budget resolution.

If that settlement is implemented without change, how much money will be recovered for the U.S. Treasury from crude oil cases, say, in each of the next 5 years? We are looking at a 5-year projection. The tax reform bill is a 5-year projection.

How much is in the total for the fiscal years, do you have any idea?

Mr. STAUNTON. I can't tell you about the years, but I can tell you the amounts. We are estimating a little more than $2 billion, if the settlement terms were followed, a little more than $2 billion would be going to the Federal Government.

Senator FORD. That is over a 5-year period or just from these 42 cases?

Mr. STAUNTON. That is over a 5-year period.

Senator FORD. Over a 5-year period?

Mr. STAUNTON. That's correct. I think the collections will be faster than that, but that would be my present prediction.

Senator FORD. Assuming the settlement is implemented, how much money will be distributed to the States in each of these years or in total for the fiscal years?

Mr. STAUNTON. I would assume in total for the 5-year period somewhere in the neighborhood of $2 million.

Senator FORD. For each, the States, and the same amount for the Federal Government?

Mr. STAUNTON. That is correct, Senator, yes, sir.

Senator FORD. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Johnston.

Senator JOHNSTON. Welcome to the committee, Mr. Staunton. I am afraid that the agency which you are taking over is somewhat out of control.

The reason I say that is that for years now, not just weeks, not months, but for years we have been getting assurances from the department that they were going to bring that litigation to a close.

President Reagan came into office riding a banner of deregulation. He takes great pride in the fact that he deregulated oil and gas or really speeded up the Carter deregulation by a period of some months. He decryed these terrible regulations, and detailed ex post facto rules which were being formulated in the department and the agency which you would be taking over. Meanwhile, we are being assured that the business of that agency is going to be completed promptly.

Your predecessor, Mr. Hanzlik, testified here over 4 years ago. At that time we talked about the need for a statute of limitations. We had already looked into the question of the legal principle of laches or undue delay resulting in the inability of a party litigant to bring his case because he is delayed due to his own fault, but we found that that principle of law didn't apply to the Government, so that wasn't available to these poor litigants.

And then we looked into the question of a statute of limitations because of some of these old, old cases are being resurrected by agencies seeking really to justify continued employment of its employees.

Mr. Hanzlik said don't worry about that, we will complete these cases promptly. As a matter of fact, he wrote me a letter back on June 17, 1982.

It says:

> I have been very mindful of the need to expeditiously complete the program. At the time I took office last October there were 1,100 pending cases. I am determined then that these cases should and could be resolved more expeditiously and that the remaining work of the agency should be accomplished during this fiscal year.

The goal was set to complete this work and close the agency on September 30, 1982. And here we are in July 16, 1986, and we are told that we are working faster now than we did last year, and because of this great speed, then in 4, 5 years we will complete the work of this agency.

Now, that really is Alice in Wonderland, isn't it?

Mr. STAUNTON. Senator, the question which you asked related to the litigation side. My prediction was that the litigation would take that long.

I do not think that the program itself will take that long because the target which I have set is the $8.2 billion, which I think will be collected well before the expiration of 4 years.

The litigation surrounds cases in which there are bitter disputes, ferocious counsel representation in bankruptcy cases which are

prolonged by a series of conflicting problems, but I do not think that in any way should foreclose the completion, successful completion of the program.

I think that will be done before 4 years, but the litigation, I think, will continue.

Senator JOHNSTON. I won't comment on the merits of the litigation because that has to be decided in court, but surely there is no reason for you to bring new cases now that have not been brought after the expiration of all of these years and they have been assuring us for over 5 years that they were going to complete the work of the agency and close it down?

Mr. STAUNTON. I certainly agree with that, Senator.

Senator JOHNSTON. Would you have any objection to a statute of limitations, that no new cases may be brought?

Mr. STAUNTON. I would not, Senator, because, as you know, being an attorney I am used to working with statutes of limitations, and I find that no problem for me at all.

Senator JOHNSTON. So the statute of limitations, insofar as new cases is concerned, let's say, would give you 30 days or whatever to bring those cases which are in your office, to file your notice of the proposed violation, so we can give some peace to those people who have been living under the sword of Damocles now for years.

We have people going bankrupt anyway in my State, in the oil and gas business, just because the price of oil is down around $10. And here they have to defend against some case that might be 5 to 6 years old on some new interpretation of the law that was never made before.

I think it is just totally unjust.

Mr. STAUNTON. We are experiencing that same thing, Senator, and we understand the problem. It is acute. There is no question about it.

Senator JOHNSTON. Well, I am delighted that you would have no objection to that statute of limitations and, Mr. Chairman, I hope we might bring one up as early as possible on a legislative bill.

We had been promised a status list of cases in the office. Can we get those before confirmation?

Mr. STAUNTON. Yes, you may, Senator. I will make sure that you get a copy of all of the recent updates together with our information on those cases.

Senator JOHNSTON. I have a number of other questions here in writing, Mr. Staunton. Let me just say that your background appears to be excellent for the position which you seek.

I will support you and I hope you will expeditiously and fairly do the work of your agency, and I am confident that you will.

Mr. STAUNTON. Thank you, Senator.

The CHAIRMAN. Thank you, Senator Johnston.

Senator Nickles.

Senator NICKLES. Thank you, Mr. Chairman. Mr. Staunton, just a quick question. The ERA has, what, licensing authority for imports of natural gas and electricity, is that correct?

Mr. STAUNTON. Yes; we license natural gas importations and we permit facilities for the importation of electricity, but we don't exactly license the electricity imports.

In a sense we allow the facilities to be constructed or say those facilities are adequate for the importation of electricity.

Senator NICKLES. For importation of natural gas do you license that, is that a procedure if you have, what, a pipeline in the lower 48 which is to purchase, say, Canadian gas?

Mr. STAUNTON. That is correct. There are a variety of different ways in which that occurs, Senator, but certainly there are pipelines. There are individual spot purchasers who are interested in buying gas and who have the transmission facilities who will try to purchase or get approval for the importation of Canadian gas.

Senator NICKLES. What volumes are we importing from Canada now? Will you submit that for us? I have got through March, but I would like to get some more current data.

Mr. STAUNTON. The actual import of Canadian gas, if I may just check my records here, the actual import of Canadian gas, there are two forms in which it comes.

We have long-term gas and short-term natural gas. And the U.S. firms in the first 6 months from November 1985 through April 1986, U.S. firms imported a total of 375.5 billion cubic feet of natural gas on a long-term basis.

They were authorized to import a total of 795 billion cubic feet. And so their imports represented a total of 47 percent of the total volumes authorized.

With respect to the spot market authorizations, almost no gas was flowing and we imported less than two-tenths of a percentage of the total of gas volumes authorized.

Senator NICKLES. Less than two-tenths of 1 percent?

Mr. STAUNTON. Yes, sir.

Senator NICKLES. So you have authorized the long term and then you authorize on the spot?

Mr. STAUNTON. Yes, sir.

Senator NICKLES. And basically you have offered a thousand times as much gas on the spot market and is what they have taken advantage?

Mr. STAUNTON. That is correct.

Senator NICKLES. You are trying to encourage spot imports of gas?

Mr. STAUNTON. Well, the spot market has shown, at least from our perspective, a real advantage in terms of the competitive market. People are seeking to use the spot market for taking care of their load, peak load divisions, but it has not worked out that way, at least insofar as Canadian gas is concerned. They are just not asking for it.

Senator NICKLES. You are making an aggressive attempt trying to bring in more and more spot market Canadian gas, is that the reason why you have authorized?

Mr. STAUNTON. We are not encouraging anybody, Senator. What I mean to say on this issue is that, what we are doing, if they come in and make an application and can make a case that it is a competitive price and that there is a need for it and that it will be reliable, we will, under those conditions, we will look at it carefully and, in the absence of any serious objection, we will go ahead and grant the authorization, yes, sir.

Senator NICKLES. What is the average price of Canadian gas under the long-term gas sales and under the spot gas sales, do you have those figures?

Mr. STAUNTON. I do not have those figures at hand. I can get them, but I don't have them at hand.

Senator NICKLES. If you would. Let me just make an observation or a comment to you. I am amazed sometimes when I see either officials from your branch or maybe some domestic pipelines that are bragging about contracts that many times are two and three times what the real market is in the producing States.

I don't know if you are aware of it or if other people in the regulatory branches are aware of the fact that there has been a dramatic decline in gas prices really for the last several months. We have spot gas prices going in our State for 80 cents, 79 cents, 1 in the 50 some cent category.

So when you talk about spot sales, I am looking at spot sales from the month of March from Canada of $1.87 and in February $2.07. Again, that is well above prices. And that is only to the border. Correct me if I am wrong.

Mr. STAUNTON. That's correct.

Senator NICKLES. That's a border price. So you have some transportation charges, depending on where it is going. If it is in California, it may be significant.

So I just make those points to you. And I noted your comment that the amount that we are importing under the long term is about 50 percent of that that is authorized or licensed but only, what, less than two-tenths of 1 percent or something like that on the spot market, but the spot market is as chaotic as it could possibly be and the prices are extremely low, and I don't know that it behooves us to just try and encourage to see how much of that Canadian gas, well, I will just let you know that there happens to be a lot of people in the domestic market that are going broke and at prices, too.

And part of that is the fact that we have had regulatory schemes, and the FERC is making some moves to try and eliminate some of the discrepancies that we have seen in the market, and possibly, hopefully, Congress will, as well, in the not to distant future, but we have a lot of people in the United States who are going broke.

And if you try and encourage, I guess the word I would use, a lot of the cheap spot market gas, Canadian gas, in the times when the market is as depressed as it is right now, you will be putting a lot of people out of business, plus you will be paying, as far as I can tell, spot prices probably two or three times what is going in the lower 48 right now.

Mr. STAUNTON. We are aware of the problem both in the lower 48 as well as in Canada. We are in touch certainly with the independent producers here to discuss the overall problem of the natural gas market.

So what you have said is true, and we are attempting to look and see whether our policies need any rethinking or any revisions. And we are trying to make some kind of determination of where we go from here. The market is bad, no doubt about it.

Senator NICKLES. Will you give me the information concerning the volumes for the last couple of months on spot and long term and, also, those prices?

Mr. STAUNTON. Yes, I would be very happy to, Senator.

Senator NICKLES. Thank you very much.

[The information follows:]

For April, total Canadian imports were 42.5 Bcf at an average price at the U.S. border of $2.90 per MMBtu. For May, imports were 51.4 Bcf at an average price of $2.53 per MMBtu. These are aggregate numbers. The specific data on the breakdown of long-term and spot import sales will be available for April, May, and June by mid-August and will be provided to you at that time.

The CHAIRMAN. Thank you.

Senator Evans.

Senator EVANS. Thank you, Mr. Chairman. Let me follow on Senator Nickles' questions.

As I understand from your testimony you said in talking about the DOE policy on imports that this policy reflects the belief that competitive imports arrangements are an essential element of the public interest and that the parties to commercial arrangements, if permitted to negotiate free of governmental restraints, will structure competitive arrangements which will be market responsive over their term.

Presumably then you would, in terms of an overall policy, that sounds to me like you would opt, if given the opportunity, for unfettered and free flow of gas across the border both ways, is that correct?

Mr. STAUNTON. That is correct, Senator, yes, sir.

Senator EVANS. Do you have any fears that the end result of that would be an increased dependence on gas from across the border at the expense of continued exploration here in this country?

Mr. STAUNTON. That point has been made, but as yet we have not seen any indications because the Canadian situation is a direct mirror of what we are experiencing here in our producers, and so we do not anticipate that.

We think the real cure for the exploration is the rise in both prices and demand for natural gas. When that happens, then exploration will start all over again.

Senator EVANS. How are you going to get the price up?

Mr. STAUNTON. I think that will increase as the demand increases. Our records show, or at least we are studying the problem, that increasingly the number of new plants that are being constructed are going to be using gas as a fuel rather than coal or oil.

Senator EVANS. Is that in the long run just in terms of potential resources and the conservation of those resources, and the use of resources, is natural gas as a fuel in the very long run the best kind of thing to do with natural gas? Should we be encouraging it?

Mr. STAUNTON. I can't answer that, Senator, because the policy guidelines under which I am operating make it clear that they want to let the market forces operate and let the consumer choose his energy source free of Government restraint.

Senator EVANS. Those are nice concepts and nice statements. Can we guarantee that everyone will follow the same concept? We may unilaterally decide to do that on this side of the border, but the Canadians may choose to do otherwise on their side.

They may choose to sell gas at lower prices to capture an increasing share of the market and, once having captured the market, raise prices.

Mr. STAUNTON. We have not seen that phenomena. If we do and detected it, we would naturally look very carefully at it.

Right now the records show that the Canadians have lost their share of the market by about 20 percent. They further show that their sales are down approximately 25 percent and that the revenues are down 32 percent for the period through April.

And the prices aren't changing and, from our indication, they are not using that strategy.

Senator EVANS. At least not temporarily?

Mr. STAUNTON. That's correct.

Senator EVANS. Over what period of time is that observation?

Mr. STAUNTON. I am talking now since the first of year.

Senator EVANS. That is a pretty short period of time, isn't it, in terms of planning policy?

Mr. STAUNTON. That's correct.

Senator EVANS. What about if you look back 10 or a dozen years, do you have any comments on Canadian policy as it may relate to the natural gas sales in the United States?

Mr. STAUNTON. Only through the historical context of what we have seen. And before they used to try to have a fixed price in Canada, they called it the Toronto gate price, and that didn't work when the falling oil prices occurred. And they had to break away from that, which is what they have done, and they have had to deregulate.

They used to have rather sterner regulations than they do now, and they have been increasingly moving towards our lead, which is to eliminate Government regulations in the pricing of natural gas.

Senator EVANS. Do you have any anticipation of what they might do if we were to return to a period of shortage?

Mr. STAUNTON. No, I do not, but one might speculate, but I have no indication of how they would handle it.

Senator EVANS. Do you believe that in a time of shortage the policy that you now espouse from the Department of Energy is still an appropriate policy and will work well?

Mr. STAUNTON. Having not gone through a period of shortages, I really can't say. I would have to think about it before I answered your question.

It is a difficult one to answer. You would have to see what would happen in the market forces.

Senator EVANS. I may well want to submit that as a written question and give you an opportunity to do that. I guess I have gone through two of those as Governor.

And the shock is pretty dramatic when the Canadians overnight increased gas prices at the border of Washington, and they were one of our major suppliers of natural gas, and they increased the price sixfold overnight. That does create some turmoil.

Mr. STAUNTON. Yes, it certainly would.

Senator EVANS. One associated question. You support the repeal of the Fuel Use Act, stating that it is obsolete and an unnecessary burden on both Government and industry.

I might well agree, but let me follow the same line of questioning. If that were to be repealed, do you feel that there would be a significant movement toward use of gas turbines, fuel cells, other electrical producers using natural gas for fuel?

Mr. STAUNTON. Yes; I do feel there would be, but there is also the same movememt occurring now. Whether it would increase dramatically by the repeal, I can't say, but we are certainly experiencing a number of applications for exemptions to the Fuel Use Act, a dramatic increase in the last 2 years over the previous years.

Senator EVANS. When you say exemptions to the Fuel Use Act, is it the policy of the Department to, in essence, grant almost every exemption that is requested?

Mr. STAUNTON. I have gone over in preparation for this hearing, Senator, I have gone over it and I have not found one case in which an exemption has been denied.

The grounds for which the exemptions were established were followed and complied with. So what I am saying is that apparently they are able to meet those conditions in the exception satisfactorily.

Senator EVANS. Doesn't that sound an awful lot like repeal of the law by administrative action?

Mr. STAUNTON. The law in it has room for many types of exemptions. The two most frequently used are the peak load and the cogeneration exemptions. There has been a great deal of activity in those two areas. And those are where most of the exemptions have come in and where most of the applications are.

Senator EVANS. Are those applications coming from nonutility producers of electricity, in other words, the cogenerators, corporate cogenerators?

Mr. STAUNTON. Yes, sir.

Senator EVANS. It does seem to me that that creates an anomaly where a utility cannot use fuel for creation of electricity but end up being required to purchase cogenerated electricity from corporations who can use natural gas, is that correct?

Mr. STAUNTON. I am not sure why utilities have not made applications over the past years. We are now receiving applications from utilities for exemptions.

Senator EVANS. Are they coming in under the peak load exemption or cogeneration?

Mr. STAUNTON. I think they are coming in for the peak load exemption.

Senator EVANS. Do you have any concern that if we were to embark on another period of energy shortage that we would—what would you assume the Department's position would be at that point if we were to have another sharp period of shortage as we did a decade ago?

Would it be the Department's recommendation that we reinstitute the Fuel Use Act or not?

Mr. STAUNTON. That is another difficult question, Senator. I am not sure what the answer to that would be because you would have to take a look and see what the available fuels were and what the shortages were before you could make your decision.

Certainly we all know that there are other sources other than gas and oil. And those would obviously be likely choices, but whether they would need a Fuel Use Act to switch over, I don't know.

Senator EVANS. Isn't that important for us to at least have some policy, concepts, or ideas? I think it would be foolish in the extreme to assume that we are now entering a period of energy glut forever.

Mr. STAUNTON. I think that's correct.

Senator EVANS. If there is, potentially, down the road, at some point the possibility, or maybe even the probability of a shortage, shouldn't we have a pretty good idea right now of how we would react to that in terms of imports from Canada or in terms of the Fuel Use Act?

In answer to both of those questions you have said we don't know what we would do; we haven't thought about it.

Mr. STAUNTON. We have thought about it, but we have not come to any conclusions, Senator. The problem is, when you run through these scenarios you can't speculate as to what fuels would be available and how the utilities would find the economics of their choice.

That is what is hard and that is the information which we really don't have, how the utilities or other users of energy fuels would look at the situation and what would be their choice given an energy shortage.

Senator EVANS. Have you asked them?

Mr. STAUNTON. We have asked some of them as they come in, but we have not conducted a search. We are initially kind of appraising our issues to see how we would take a look at it and what are the right questions to ask, which is just as important as almost getting the answers.

Senator EVANS. You don't think it is important to get at it pretty promptly, to ask the questions and create the scenarios and at least have some idea of how it would react in the face of what could be a very quick and very sharp shortage given, you know, any number of circumstances that exist in the world?

Are we going to end up in a period of crisis and then wring our hands and not know what to do?

Mr. STAUNTON. We would hope that if it came in unexpectedly, that we would be prepared with our recommendations at that time. I am sure they would not be as complete as they would be if we had more time to study, but we are not unaware of how the market might respond and how the sources of energy fuels would be picked up by these utilities.

I think we have a fairly general idea of how that might happen. Our point is to the specifics and how best to make those recommendations.

Senator EVANS. Do you have any idea how fast you think a shortage might develop given the plausible combinations of international circumstances?

Mr. STAUNTON. We are looking for at least an energy, the continued energy circumstances for the next 9 months at least.

We do not see at present any dramatic change in that period of time. That may be revised, and we are constantly looking at it. That may be revised as we go down the line, but we are thinking 9 months.

Senator EVANS. Nine months, that is not very long. And let's for the moment assume that that is a correct assumption, and that 10 months from now we have a disruption, war breaks out in the Middle East or whatever happens to create a quick and potentially serious shortage.

Do you expect to have something in hand in terms of what to do about it? And maybe what to do about it is nothing, just let the market react, but I haven't heard that stated as a recommendation.

Will you be ready 10 months from now?

Mr. STAUNTON. Oh, yes; we would be prepared.

Senator EVANS. How soon do you expect to be prepared?

Mr. STAUNTON. What we are doing is constantly looking at the market conditions, the response and the available fuels, sources of fuels, and updating our thinking and recommendations of where we think all of this is going.

And then we do, obviously, the work of the dramatic scenarios, what happens if the glut continues, what happens if a shortage occurs, and studying the effects on the various ingredients or elements of our decision making.

Senator EVANS. Do you have then, with that scenario of a shortage rapidly occurring, then presumably you have done that scenario and you have in hand what you intend to do about it?

Mr. STAUNTON. We haven't completed, as I indicated earlier, we haven't completed our thinking on that.

Senator EVANS. Can you tell me how soon you expect to complete your thinking on it?

Mr. STAUNTON. For the kind of conclusions on which we can base some kind of opinion it would take us some time to do that, but we can give an emergency plan in a relatively short period of time, taking a look at what might occur.

Senator EVANS. Thank you, Mr. Chairman. I don't feel very comfortable, frankly.

The CHAIRMAN. Senator Domenici.

Senator DOMENICI. Thank you very much, Mr. Chairman. I hope I will not repeat any questions.

I assume you have already familiarized yourself with the state of the American energy industry, at least as it pertains to natural gas and crude oil exploration and reserve acquisition in the United States, have you not?

Mr. STAUNTON. Yes, Senator; I have.

Senator DOMENICI. It is my understanding that in reviewing many of the applications that come before the ERA, and I am thinking now of a few that I am aware of, there may be many more, that have to do with the importation of natural gas, that your standard for approval is that the application, and I quote, "will not be contrary to the public interest, 'do I quote that correct?

Mr. STAUNTON. That is correct, Senator.

Senator DOMENICI. It may seem like a small point, but I think you should be putting some effort into determining if the application will be in the public interest; in other words, I wonder if you should be considering promoting importation of foreign natural gas.

Is it in the long term, best interest of the citizens of this country at a time when natural gas exploration and development is at a stand still here in our country, is it in our country's best interest to encourage imports rather than the use of domestic production, could you give us at least your thoughts on that?

Mr. STAUNTON. The question you have asked, Senator, is one in which we have looked at long and hard because, as you pointed out, the economic conditions of the individuals in the gas industry are in a serious plight, and we have met with those individuals to discuss with them the effects, if any, of the imports.

It is my view that our present import policies are not affecting the gas industry as much as, if at all, as the drop in the price of oil and the current price drop in gas.

That is the problem because the demand is off. We have taken a look, as I mentioned earlier, on what the Canadians are doing, and the Canadians, the import gas, their market share is down 20 percent. Their sales are down, off 25 percent for the period between the first of the year and now, and their revenues are off 32 percent.

So that they are not doing as well as the U.S. producers. So we do not see yet a correlation that our imports are impacting in a fashion that would be harmful to the U.S. producer.

Senator DOMENICI. Well, that may be the case just using the kind of statistics and numbers that you use, but there are a couple of occasions when your predecessors have approved importation from Canada which are basically calculated to put Canada in some markets both in terms of quantities and areas that they have been in, but to a much less degree, and it seems to me that if we just adopt the position they are bad off also, that that might not be looking at the standard contrary to our public interest.

We are not talking about Canada's interest, are we?

Mr. STAUNTON. No, we aren't. It is solely and exclusively from the U.S. side, Senator.

In addition to the provision which you quoted, the Secretary of Energy, previous Secretary of Energy, has issued guidelines on how the regulation and licensing of imports of natural gas should be conducted.

And the criteria that he has set forth are that it is competitive, and that means price, that there is a need for it, and that there, in fact, is reliability in the source of supply.

And we look at those elements as we authorize or review license applications and then authorize them. Those are the criteria which we use and, hopefully, they are being applied in a way which keeps the U.S. market protected from any adverse or any unfair advantage.

Senator DOMENICI. Let me give you a case and see if you have any thoughts as to whether you ought to be involved and whether you have jurisdiction.

The natural gas produced in my State, in particular in one part, the four corners area, almost all of it goes to California.

At this time the way the distribution companies decide what mix of foreign and domestic gas they are going to take is done in a rather strange bidding process and manner, at least as far as I understand it.

You see our pipelines are in the spot market, too. Even though they have take or pay and they have commitments, they are out there. They have worked out a situation with the independents where that line is an access line. It is not one of these that is only theirs. They are taking delivery of owned gas to a user and they are out in the spot market trying to compete in terms of what they deliver.

So after the pipeline that does this collecting of the gas in my State provides a bid to a distributor, a major one in California, the Canadian gas comes in and offers its price.

In effect, they have the right of last refusal. It doesn't matter how much less. It can be a tiny, tiny bit less, but it is over with. Canadians sell the gas and the pipeline company that has put all of this together, including some of that which they have contracts on, some which is spot, that Canadian price is sort of the last one they take the offer on, a half, a quarter cent less.

In effect, it seems to me that you should have some authority over the terms under which imports enter this country and the kind of process which you might really look at if you were concerned about public interest, as I define it, which is concern about my producers, producers in Louisiana and Texas and elsewhere.

Could you comment on that and, if you have not yet, would you mind taking a look to see if I have stated the case and, if I have, should there not be some opportunity to say again to the American pipeline, okay, they have bid that price, will you do it? Why should the Canadians have that?

Mr. STAUNTON. I am not familiar with the procedure, Senator, but I see no reason why what you suggest cannot be done. I don't know if that is a local technique that they use or procedure that is followed in California or not, but I will be very happy to review it and comment on it once I have an opportunity to take a look at it.

Senator DOMENICI. Mr. Chairman, with your permission could we furnish the witness with the cases in point and ask him to comment to the committee?

I clearly would like to know whether this is a growing practice and if we could not do something about it. I am not asking for favors from my producers in this case.

The CHAIRMAN. Senator Domenici, I think it might be appropriate for us to have you submit for the record a statement with respect to the pricing.

Senator DOMENICI. With the case that I have in point?

The CHAIRMAN. With the case that you have in point. If you do so, it will be received for the record.

Senator DOMENICI. Thank you very much. I have one additional question. I will submit it in writing.

The CHAIRMAN. Thank you very much.

Senator Ford.

Senator FORD. Mr. Chairman, I am somewhat surprised at Mr. Staunton not understanding the procedure. He has been over there 9 months. I thought you would have known what Senator Domenici was talking about, and I hope that you will familiarize yourself with that because it is a growing problem, and I sympathize with the Senator very much.

Did I understand you at the beginning that you approve electricity that comes into this country?

Mr. STAUNTON. No, we approve the facilities through which the electricity would be imported, which is a smaller distinction, but there is not an actual application for a licensee.

Senator FORD. Do you approve the facility in Canada?

Mr. STAUNTON. No, in the United States.

Senator FORD. What facility does the electricity come through, what type of facility?

Mr. STAUNTON. The transmission lines, the stations, and various facilities.

Senator FORD. You just approve the transmission lines?

Mr. STAUNTON. That is correct.

Senator FORD. How much electricity is coming into this country from Canada?

Mr. STAUNTON. At present in the total thing at various spots, it is less than 2 percent, something at 1.7 percent of the total electricity used.

Senator FORD. How many megawatts is that?

Mr. STAUNTON. I am sorry, I don't have that.

[The information follows:]

During 1985 the U.S. imported 45,900,000 megawatt-hours and exported 5,000,000 megawatt-hours of electric energy from Canada and Mexico. This nets to 40,900,000 megawatt-hours of imports.

Senator FORD. You know, 2 percent doesn't sound like much, but when you get it into megawatts you get a large, large amount. You take the whole State of Vermont for 25 years is a pretty good hunk of electricity. I just wondered.

Now, let me ask you this. We talked about shortage. Senator Evans talked about it a minute ago.

What is the first Btu-related energy source to be in shortage, if we have a shortage?

Mr. STAUNTON. You have to assume that it would have to be oil.

Senator FORD. What would be the second?

Mr. STAUNTON. I would assume gas.

Senator FORD. Then under the Fuel Use Act you have coal capable, and you want to do away with that as it relates to boilers if you are opposed to elimination of the Fuel Use Act, is that correct?

Mr. STAUNTON. Coal capable, as I understand, Senator, was not involved in our suggestion or in the Department's position with respect to the repeal of the Fuel Use Act. It was just an out and out repeal of the Fuel Use Act.

Senator FORD. If you repeal the Fuel Use Act, you repeal the coal capable provisions?

Mr. STAUNTON. I understood that was being considered separately. That suggestion had been made independently of the Department's position on the repeal.

Senator FORD. Do you mean that you want to put back in coal capable?

Mr. STAUNTON. No, I did not mean that.

Senator FORD. Well, then you just want to do away with it?

Mr. STAUNTON. The question of coal capability was a separate question which is being considered by the individuals.

Senator FORD. By whom?

Mr. STAUNTON. By the Congress and by the individuals who were supporting or opposing the Fuel Use Act repeal.

Senator FORD. Well, it can't be that way because coal capable is part of the Fuel Use Act. They are either for keeping the Fuel Use Act or against it. That could be the argument, but the administration has come down on the side of eliminating the Fuel Use Act, therefore, you eliminate the coal capable provision?

Mr. STAUNTON. That is correct.

Senator FORD. So, therefore, you are opposed then to having a coal capable?

Mr. STAUNTON. I guess my position is, and it has to be this, that we feel the Fuel Use Act as it presently is stated is a burden on the taxpayer, on the Government and on the consumer.

And so that our proposal is that the Fuel Use Act is appropriately repealed.

With respect to coal capability, that is a different problem which, at least in our initial inquiries, leads perhaps down a different path.

Senator FORD. Do I get the impression, rather than maybe the actual statement, that you are for elimination of the Fuel Use Act except the coal capable provision?

Mr. STAUNTON. No, because I don't know enough about the coal capable provision to know. I have not had an opportunity to study what effect the continuing existence of the coal capable would have on the industry itself and whether or not that would be, in fact, a useful provision or not.

Senator FORD. I wish you would study the provisions of the Fuel Use Act so you can make a judgment as it relates to the coal capable provisions.

You were asked your position and you were opposed to the continuation of the Fuel Use Act. That was kind of a blank, flat statement.

Then when I began to ask you about the provisions, you are not sure. Individuals or Congress might take a different position.

Well, that is always true, but you are personally opposed to the Fuel Use Act?

Mr. STAUNTON. That is correct.

Senator FORD. And that means that you are opposed to continuing the coal capable provision?

Mr. STAUNTON. That is correct, Senator, yes, sir.

Senator FORD. Now we have you on record, and I thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

All members of the committee may have until the close of business on today to submit questions in writing for a response to the record.

Thank you very much for your testimony this morning.

Our next witness is Dr. A. David Rossin, the nominee for Assistant Secretary for Nuclear Energy.

As Assistant Secretary, he will be responsible for planning and implementing a number of DOE programs, including uranium enrichment, and research and development programs in the areas of nuclear reactor technology, advanced enrichment techniques, the

Naval reactor program and nuclear waste management, including both long-term and interim storage.

Dr. Rossin has worked in the nuclear energy field for many years, most recently as Director of the Nuclear Safety Analysis Center at the Electric Power Research Institute since 1981.

For the previous 10 years he was director of research for the Commonwealth Edison Co. He also worked for 17 years at the Argonne National Laboratory in various technical and management capacities.

Dr. Rossin holds several degrees: a bachelors in engineering physics from Cornell University, a masters in nuclear engineering from Massachusetts Institute of Technology, a masters in business administration from Northwestern University, and a Ph.D. from Case Institute of Technology.

Before proceeding to the questions, and swearing the witness, I would make a statement by Senator Pete Wilson a part of the record at this point.

[The prepared statement of Senator Wilson follows:]

Pete Wilson

STATEMENT OF THE HONORABLE PETE WILSON

SENATOR FROM CALIFORNIA

BEFORE THE COMMITTEE ON

ENERGY AND NATURAL RESOURCES

Mr. Chairman, I am delighted to have the opportunity to introduce to you and the other members of this distinguished committee, Dr. A. David Rossin, who has been nominated by the President to serve as Assistant Secretary of Energy for Nuclear Energy.

Dr. Rossin possesses the credentials to bring a high level of expertise to this position. His professional and educational background is characterized by both depth and diversity. As a twenty-seven year veteran of the nuclear power field, he has the kind of comprehensive knowledge and experience in the field of nuclear energy that will enable him to excel at the Department of Energy.

Since 1981, Dr. Rossin has served as the Director of the Nuclear Power Division of the Nuclear Safety Analysis Center at the Electric Power Research Institute in Palo Alto, California. Established in 1979 by U.S. utilities with nuclear commitments, the EPRI has undertaken studies on the Three Mile Island accident and has developed new mechanisms for analyzing reactor operating experience which may be

utilized in efforts the decrease the risk of future accidents. Dr. Rossin has been active in the utility advisory structure governing research and development programs at EPRI. Under Dr. Rossin's leadership, the Nuclear Safety Analysis Center now concentrates on resolving generic issues related to nuclear power safety.

Prior to joining the Institute, Dr. Rossin served as Director of Research for the Commonwealth Edison Company in Chicago, Illinois. He has further distinguished himself in the nuclear power field, working in various technical and management capacities at Argonne National Laboratory from 1955 to 1972, before moving to Commonwealth Edison. The scope of these activities has included reactor engineering, reactor shielding, radiation effects on materials, and environmental impact evaluations.

Dr. Rossin is widely recognized as a leader in the nuclear power industry. He is a charter member of the American Nuclear Society. Prior to appointment to his present position, Dr. Rossin was Chairman of the Nuclear Power Division's Systems and Materials Utility Task Force. He has also acted as Chairman of the Boiling Water Reactor

Owners' Group Pipe Remedies Technical Advisory Committee. In 1982, Dr. Rossin received the Electric Light and Power "Industry Man of the Year" award in recognition of his many public statements on nuclear power and on energy issues.

In addition to his outstanding professional qualifications, Dr. Rossin has an illustrious academic background. He received a B.S. degree in Engineering Physics from Cornell University in 1954, and an M.S. degree in Nuclear Engineering from M.I.T. in 1955. In 1963, he received an M.B.A. degree from Northwestern University. He was awarded a Ph.D. in Metallurgy from Case-Western Reserve University in 1966.

Mr. Chairman, the nuclear power industry is at a major crossroads. The Chernobyl accident has raised many serious questions about the future of the industry. It is vitally important that we have qualified leaders in the field if the industry is to advance in a safe and productive fashion. Dr. Rossin's fundamental technical knowledge and practical professional experience make him ideally suited for the position of Assistant Secretary. I urge this Committee to accept the nomination of Dr. Rossin for this most important position.

The CHAIRMAN. As you know, Dr. Rossin, all nominees appearing before this committee must be sworn with respect to their testimony. Would you please rise and raise your right hand?

[Whereupon, A. David Rossin was duly sworn by the chairman.]

The CHAIRMAN. Please be seated. Before proceeding to the questions, I might just note the presence of your wife, if you would like to introduce her to the committee, please.

Dr. ROSSIN. My wife, Sandy Rossin.

The CHAIRMAN. You are very, very welcome. Nice to have you here.

Dr. Rossin, you know that we require certain questions and responses of all witnesses for positions who are nominated by the President. I would like to ask these questions of you.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Dr. ROSSIN. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Dr. ROSSIN. I have no objection.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Dr. ROSSIN. My investments, personal holdings and other interests have been reviewed by myself and the appropriate ethics counselors within the Federal Government.

I have taken appropriate action to avoid any conflict of interest. There are no conflicts of interest or appearances thereof to my knowledge.

The CHAIRMAN. Are you involved in or do you have any assets in a blind trust?

Dr. ROSSIN. No, I do not.

The CHAIRMAN. You may proceed with your statement, Dr. Rossin.

STATEMENT OF DR. A. DAVID ROSSIN, NOMINEE TO BE ASSISTANT SECRETARY FOR NUCLEAR ENERGY, DEPARTMENT OF ENERGY

Dr. ROSSIN. Thank you, Mr. Chairman. It is an honor for me to appear before you today as President Reagan's nominee for the position of Assistant Secretary of Energy for Nuclear Energy.

My prepared statement has been furnished for the record. With your permission, Mr. Chairman, I will summarize it at this time.

The CHAIRMAN. The entire statement will be made a part of the record in full, and you are invited to summarize.

Dr. ROSSIN. This position for which I have been nominated is a challenging one at any time and particularly now.

If confirmed, I believe I can work effectively with Secretary Herrington as well as with this committee. It will be a new experience for me. In every phase of my career I have worked closely with Federal agencies.

I have prepared and presented testimony before the Congress and have worked on occasion with members and their staffs.

Thus, I have spent much time in this city, and I look forward to serving here.

Mr. Chairman, I fully recognize that the problems and issues involving nuclear power are many and complex. Nonetheless, I believe they need to be resolved and can be resolved, because this Nation and others need the electric energy supplied by the plants now in operation and currently under construction.

I also believe that in the decades to come, new power plants will be needed to replace old ones and to supply the growing needs of society.

My utility experience tells me of the importance of diversity in energy supply capacity. Therefore, I have never argued that all future power plants should be nuclear. Throughout my career I have worked hard to promote achievement of environmental goals, balanced with safe and well-analyzed uses of technology.

Thus, I believe that nuclear power will be an important part of our mix of generation.

In my prepared statement I have laid out six goals, all of which are important to me.

In summary, first, to work with the Congress, the other Federal agencies and the industry to make effective use of the resources of the Department of Energy to help bring into being a viable framework for future nuclear power investments.

Without some of the key regulatory improvements that are under consideration by this Congress, utilities would not seriously consider nuclear power as a viable option.

Next, nuclear power requires an infrastructure of suppliers, designers and builders, a strong research and development program, experienced engineering and management, and young people interested in careers in nuclear energy.

It is a goal of mine to improve public understanding of the complex problem areas in this field.

My third goal is to see the emergence of only those advanced reactor concepts that have real potential to meet commercial power needs.

Another goal is to utilize the talent and facilities of the DOE to help solve some very challenging energy requirements.

During the past few years energy needs of certain defense programs have been specified, and the DOE nuclear energy program is supporting the development, design, and testing of space and defense-related energy sources.

Our outstanding national laboratory facilities are being utilized in these programs. The departments with the mission for these sources need to continue to contribute their appropriate share of funds to help cover the cost of operation of these facilities.

My fifth goal involves communication and public understanding. I continue to believe that open and effective communication is

vital. I believe that research is not complete unless it is reviewed and published.

I will make sure that communication continues to be an integral part of DOE's nuclear energy program.

Let me conclude with nuclear safety. Safety must remain top priority. This has been a major commitment of mine throughout my career.

The accident at Chernobyl is serious, and there may be much that can be learned from it. I hope to see the establishment of international agreements for gathering and releasing of data and for coordinating emergency response actions.

I will commit my expertise to work within the administration and with the Congress to help bring this about.

Thank you for allowing me to share these thoughts with you today. I will be happy to answer your questions.

[The prepared statement of Dr. Rossin follows:]

STATEMENT OF

A. DAVID ROSSIN

NOMINEE FOR THE POSITION OF

ASSISTANT SECRETARY FOR NUCLEAR ENERGY

OF THE DEPARTMENT OF ENERGY

Mr. Chairman:

It is an honor for me to appear before you today as President Reagan's nominee for the position of Assistant Secretary of Energy for Nuclear Energy. This is a challenging position at any time, and particularly now. I am gratified that I have been selected for this assignment and, if confirmed, I intend to make a positive contribution in this important area.

If confirmed, I believe I can work effectively with Secretary Herrington as well as with this Committee. It will be a new experience for me. As I describe my experience in research and management, you will not find Government service. However, in every phase of my career, I have worked closely with Federal agencies; I have prepared and presented testimony before the Congress, and have worked on occasion with Members and their staffs. Thus, I have spent much time in this City, and I look forward to serving here.

BACKGROUND:

I was born in Cleveland, Ohio, and graduated from Cleveland Heights High School in 1949. My father spent his career with the Picker X-Ray Corporation, and I learned early of the benefits and hazards of radiation.

I received my Bachelor's degree in Engineering Physics from Cornell University in 1954, and a Master's degree in Nuclear Engineering from Massachusetts Institute of Technology in 1955, part of which involved 5 months at the MIT Oak Ridge Engineering Practice School. Following graduation, I went to work at Argonne National Laboratory, outside of Chicago. My work involved the design of experimental power reactors, particularly radiation shielding design and the safety analyses. During that period, I began research on the effects of intense neutron radiation on the steel pressure vessels that surround the core of light water reactors. This field of research became the subject of my doctoral thesis and led to involvement with the scientific community, both in the U.S. and internationally. While at Argonne, I served on the Argonne Reactor Safety Review Committee for 10 years and was its Chairman for a year.

During the first several years I was at Argonne, I took night school courses at Northwestern University, and in 1963 received the degree of Master of Business Administration. In 1964 I began a cooperative program with Argonne and Case Institute of Technology that culminated in a Ph.D. in Metallurgy in 1966. My research, on hydrogen embrittlement of irradiated steels, was performed at Argonne.

During 1968 I held a Fellowship at the Adlai Stevenson Institute of International Affairs, and conducted a study on the international migration of scientists, engineers and physicians. Returning to Argonne, I continued my research on materials, safety, and environmental impact of power plants. For two years, I was assistant to Dr. Stephen Lawroski, who was Associate Laboratory Director for Engineering, with responsibilities for budget, planning, inter-divisional coordination and reporting to all reactor-related programs.

In 1972 I joined the Commonwealth Edison Company, and served there in various assignments, the last one being Director of Research for the Company. During those years, I served on a number of corporate, industry and scientific advisory committees, including being Chairman of the Advisory Task Forces for the Safety and Analysis Department and the Systems and Materials Departments of the Electric Power Research Institute (EPRI).

I was appointed Director of the Nuclear Safety Analysis Center (NSAC) at EPRI in 1981. NSAC was established in 1979 by the U.S. utilities with nuclear commitments. It analyzed the Three Mile Island accident, and developed new mechanisms for analyzing reactor operating experience and communicating the findings in order to reduce the likelihood of future accidents. NSAC now concentrates on resolving generic issues related to nuclear power safety. I am proud of the accomplishments of NSAC during these past 4 1/2 years.

GOALS

The position for which I have been nominated involves nuclear energy. I believe that nuclear power can continue to supply a significant and growing share of our electric power and, indeed, will do so in many nations worldwide.

I fully recognize that problems and issues involving nuclear power are many and complex. Nonetheless, I believe they need to be resolved, and can be resolved, because this Nation and others need the electric energy supplied by the plants now in operation and currently under construction. I also believe that in the decades to come, new power plants will be needed to replace old ones and to supply the growing needs of society.

I do not suggest that growth in electricity demand will occur at some predictable percentage annually, but there will have to be enough electric generating capacity if the needs of our people are to be met. That means some growth in demand.

My utility experience tells me of the importance of diversity in energy supply capacity. Therefore, I have never argued that all future power plants should be nuclear. Throughout my career I have worked hard to promote achievement of environmental goals, balanced with safe and well-analyzed uses of technology. I believe that nuclear power can, and indeed should, play its appropriate role in meeting our future needs. This can only happen if we operate the current plants well, and develop a coherent framework in regulations, safety design, economical construction and component reliability.

My first goal is to work with the Congress, the other Federal agencies and the industry, and make effective use of the resources of the Department of Energy (DOE) to help bring into being a viable framework for future nuclear power investments. Without some of the key regulatory improvements that are under consideration by this Congress, utilities would not seriously consider nuclear power as a viable option. A certified advanced light water reactor that is commercially attractive to utilities needs to be ready to meet market needs, and DOE has an important role in that development.

My second goal involves the infrastructure that is essential to support a viable nuclear power base in this country. Nuclear power requires suppliers, designers and builders, a strong research and development program, expertise to analyze and improve systems, dedicated, educated and experienced engineering and management, and young people interested in entering this field. The fuel cycle, once thought to be so well understood and planned for decades to come, is no longer predictable. Thus, my second goal is to provide to the Congress and to the American people a broad understanding of the problem areas in this complex infrastructure, and focus appropriate resources of DOE toward resolving the most critical issues.

My third goal is to see the emergence of those advanced reactor concepts that have real potential to meet commercial power needs. There are always new ideas, new results of research, and new variations on previous

approaches, which need to be examined. Obviously, only a few can be studied in any depth. Criteria need to be developed under which DOE can focus its resources only on those systems which truly show the potential to meet the needs of the energy supply marketplace.

My fourth goal is to utilize the talent and facilities of DOE to help solve some very challenging energy requirements. During the past few years, energy needs of certain defense programs have been specified, and the DOE nuclear energy program is supporting the development, design and testing of space and defense-related energy sources. Our outstanding national laboratory facilities are being utilized in these programs. The Departments with the mission for these sources need to continue to contribute their appropriate share of funds to help cover the costs of operation of these facilities. This is essential because our research capability needs to be maintained and we must achieve successful development of specialized advanced reactors. I hope to see the success of these technically challenging programs, while maintaining the appropriate focus on advanced civilian reactor research and development.

My fifth goal involves communication and public understanding. I continue to believe that open and effective communication is vital. Scientific and technical information can be subjected to critical review, and then valid findings can be presented in a way that people can understand them. I believe that research is not complete unless it is reviewed and published, and I will make sure that communication continues to be an integral part of DOE's nuclear energy programs.

My sixth goal involves nuclear safety, which has been a major commitment throughout my career. The accident at Chernobyl in the Soviet Union is serious, and there is much that needs to be learned from it. One lesson is obvious, however, and we have already learned it and put it into practice in the U.S. From now on, there needs to be a trustworthy international system for prompt and effective notification and response in the event of any radiation emergency. The uncertainty, fear and mistrust of the past month do not have to be repeated. My goal is to see the establishment of international agreements and institutions that will include all nations, and provide for pre-commitments to gathering and releasing of data, planning of emergency response actions, and for international support and response teams. I will commit my efforts and expertise, along with resources at my disposal, to help bring this about.

Thank you for allowing me to share these thoughts with you today. I will be happy to answer any questions you might have.

The CHAIRMAN. Thank you very much, Dr. Rossin.

There are some who have suggested in light of two serious accidents, one in this country and one overseas, and the market response to the difficulties and uncertainties of the regulatory and economic problems associated with nuclear power, we shouldn't be confirming you or anybody else. We ought to just abandon the field.

What is your response?

Dr. ROSSIN. I would be very shocked and disappointed if that were the policy of this country.

The CHAIRMAN. You have spent your entire adult lifetime in this field. Obviously you would like to have some career left.

So I suppose you would like to be there and you would like to see, just in personal terms, the continuation of the industry of which you are such an important part.

Why should the country be as concerned about it as you are?

Dr. ROSSIN. I think the country really has to be concerned about it. I can find work.

Nuclear power is a part of this Nation's energy supply mix. It is not the whole story, but it is an absolutely necessary part. It generates approximately 15 percent of our electricity today, and that is not something we can get along without.

In the future it could do more. It could provide a cushion against international shocks of the kinds we experienced in the seventies with oil and natural gas.

I think it has been proven that this capability of nuclear power to ride out those shocks is extremely important. Other countries of the world have taken the same position.

This is evident from the programs in the United Kingdom, France, and Japan, throughout Western Europe and many other countries. Nuclear power has a role to play.

It is part of the mix and it makes sense as part of the mix. I think it is really crucial to the future of this country in the long run so that we do have a viable, diverse, and flexible energy supply capability.

The CHAIRMAN. Dr. Rossin, for many years the growth and demand for energy paralleled growth in GNP pretty closely.

In a couple of years in the late 1960's that wasn't true, but since 1979, in particular energy conservation, reduction in consumption of energy, has been quite notable. It is a fixed feature of our society at least in current conditions, but I note that in the growth of electrical energy, electrical energy growth still parallels growth in GNP.

Are there alternatives to nuclear power in the production of electrical energy?

Dr. ROSSIN. There are obviously alternatives. If you want diversity, you want to make use of those alternatives.

Coal still supplies the largest share of our electric generation and will continue to. We have cut back dramatically on our use of oil and natural gas for central station electric generation.

This was a decision made by the Congress, a policy of the country, made in order to conserve these supplies for other uses, other uses for which oil and gas are uniquely usable.

I think that we ought to explore all of our alternatives for electric generation, but the major ones for the future are going to remain coal and nuclear, with oil and natural gas providing support and swing capacity in various regions of the country.

Beyond that, alternative energy sources as they are developed may be able to contribute.

The CHAIRMAN. In your view what is the proper role of the Department of Energy with respect to nuclear research and development?

Dr. ROSSIN. I think the critical factors are to provide an understanding within Government of the role that nuclear power can play, to work with the other agencies of Government and with the industry to try and provide greater safety, greater reliability and reliability of our overall energy supply structure.

Our research and development has to be dedicated, not only to the improvements in our current systems but, more important, to the future, because the return on investment to private industry in the years to come from major long-term development projects is just too far off for the kinds of investments that are needed to provide a research base for future energy generation alternatives.

This wasn't the case 20 or 30 years ago. History has changed. I think, now, that the Government has to be a partner if we are going to have alternatives ready for the future.

The CHAIRMAN. The Reactor Safety Research Program conducted by NRC has experienced major budget reductions over the past several years.

In view of the fact that this NRC research is conducted at DOE labs using DOE facilities and DOE contractor personnel, do you feel that DOE could play a larger role in safety research to make up for NRC's dropoff?

Dr. ROSSIN. Certainly the capability exists within those facilities. I think the ability to do this depends on the identification of high priority programs that are needed and the budget authority to proceed with those programs.

I haven't studied the details of the DOE safety programs as they stand in current budgets, but I will be involved with that if I am confirmed.

The CHAIRMAN. Thank you very much.

Senator Evans.

Senator EVANS. Thank you, Mr. Chairman.

Dr. Rossin, you have a distinguished record, and I really looked back through the list of your writings and there are four or five of them that I will ask for in writing, more for my curiosity than for anything else but, also, to gain information on your feelings and thoughts on such issues, for instance, as an article, admittedly written 8 years ago now, called "The Irony Of Nuclear Waste Disposal"; another one in October of 1979 on "Long Term Geologic Storage Of Spent Fuel, Feasibility, Necessity And Common Sense"; "The Soft Energy Path, Where Does It Really Lead"; and one or two others.

I think it would be useful to get those both for the information that might be in them and, also, a sense of your own feelings, which I presume were stated in those articles.

Dr. ROSSIN. I would be pleased to supply them.

Senator EVANS. Thank you very much.

In terms of our future development of nuclear power, would you agree that as of today there is essentially no future, at least nothing going on, no utility has ordered a new nuclear plant now in, what, 6 years, 7 years, an extraordinarily long period of time?

That has had the effect of drying up the necessary support industries that go along with that. What is it going to take in your view to change things?

The utilities don't seem to be interested at the moment at all, not only in nuclear but, frankly, at least the ones I have talked to and the ones who have testified here, are not even very interested in coal-fired or other large single-production sources on the basis that they can't predict electric load growth well enough.

The risk of time that it takes to complete one of these plants is too great, and they are opting for other incremental sources of production.

Is that going to be the long-term future for an extended period of time?

Dr. ROSSIN. I don't think it is a healthy future for the long term.

With regard to orders, the last nuclear orders in the United States were in 1978. I was working for the company that placed those orders. Those orders have since been canceled.

In fact, there are no construction projects of nuclear plants that were ordered before 1973 to my knowledge. That is a long time.

Senator EVANS. I think we all know at least a portion of the reasons, but utilities collectively have made those decisions, that they simply do not see the feasibility, at least under current circumstances, for nuclear power.

If you are going to be in charge of that part of the Energy Department, is there a job ahead and, if so, how are you going to help change things?

Dr. ROSSIN. I believe there is a job ahead. Utilities in this country have actually canceled more coal plants than they have nuclear plants in the last decade and a half.

One of the serious problems is that long-term large capital commitments by utilities are viewed as too uncertain for the kinds of financing, the kinds of operation, the kind of long-term assurances that utilities need.

Unfortunately, this is the case for coal as well as nuclear, but for slightly different reasons.

Utilities are not against the idea of nuclear generation, but unless there is a viable, predictable, understandable licensing process, it is not a good investment for utilities to make. You have got to know what the rules of the game are and you have to have confidence that those rules are going to be kept in place and that they are going to be observed by all of the parties.

This hasn't been the case in nuclear power. And until it is, I doubt that you will see utilities making any commitments for nuclear power plants, large or small, in this country.

The viability of nuclear power is demonstrated in other countries such as France, Japan, the United Kingdom, Soviet Union, who are going ahead with their programs, Korea and Taiwan as well, because they feel that nuclear power plants are a good investment.

And the key is they know what the rules are. They know that when a commitment is made for construction that the plant will be built. They know what kind of schedules it takes to build them, and how much it will cost.

Those certainties are necessary if we are going to go back into large power plants, coal or nuclear.

What can I do? A lot of this remains to be seen, but I really believe that working with this committee, the Congress, with the Department of Energy, with the industry, an industry that I understand and know fairly well, that we can improve our understanding of the problems and try to arrive at some solutions which will help us move ahead.

Senator EVANS. What in your view besides the certainty of licensing and the capability of building plants, it is my understanding that also just reliability and production of electricity from those plants tends to be higher and more reliable in other countries than in this country. Why?

Dr. ROSSIN. This varies year to year and it varies with different types of plants. I think if you look back at the year before the Three Mile Island accident, the U.S. figures were as good or better than most of the countries throughout the world.

Following Three Mile Island we instituted some very long delays, a lot of backfits, a lot of modifications, and lengthy shutdowns. I think we are beginning to recover from that period now, and the averages are going up each year.

There are some countries that have exemplary records, and that proves to me that it can be done. The utilities in this country are setting high goals, trying to improve their performance and trying to reach those goals.

It isn't true that every other country has performance records better than ours, but the fact is that nuclear plants are capable of performing well and we are capable of making improvements in our operation. I think we are working very hard to do that.

Senator EVANS. You state on page 5 of your testimony the various goals. You begin with your first and go through the six goals that you have. And you talk about the infrastructure that is essential to support a viable nuclear power base in this country.

You mention a good many things, but at least don't specifically mention one that currently looks like it could be a critical one and, that is, waste disposal.

What are other countries doing about waste disposal? France now has half their electric generation coming from nuclear power. What are they planning on doing with their waste?

Dr. ROSSIN. France is reprocessing its spent fuel and planning to continue to reprocess its spent fuel and then dispose of the waste.

They are working very hard on the development of a waste repository to handle the waste from their reprocessed spent fuel.

Senator EVANS. In the meantime they continuously reprocess the fuel as the spent fuel comes out of the reactors?

Dr. ROSSIN. They can't reprocess it just as fast. They are storing some of it, holding it until they are ready to reprocess it, until they have more reprocessing capability.

Senator EVANS. Has that given them an extensive period of time to really look through the whole question of a permanent repository?

Dr. ROSSIN. I don't think France or any other countries, or the United States, have any long-term doubts about the technical feasibility of deep earth storage of the waste from nuclear powerplants.

The problems in this country and in other countries are complex. They involve many more things than just technology.

The French are carrying out a step-by-step program which in time will have their wastes in the ground. And their public apparently understands that that is what they are going to do.

Senator EVANS. What about Japan?

Dr. ROSSIN. Japan has had some spent fuel reprocessed in France, and they are contracting with France. And I think they may have some other long-term options for reprocessing.

It is their intent to reprocess and ultimately dispose of their wastes, although I am not familiar with the exact steps that they plan to take.

Senator EVANS. I don't detect that we are taking the same attitude toward reprocessing as these other countries are. Why not?

Dr. ROSSIN. In 1977 the President of the United States put a ban on reprocessing. Since then the industry has been unable to generate the political acceptance and the economic resources to get reprocessing going again.

I don't think anybody expects a real turnaround in that within the next couple of years.

Senator EVANS. We can't gain the political support for reprocessing. We certainly haven't got the political support for waste disposal. We don't seem to have the political support for virtually any part of the nuclear industry at this time.

What do we have to do? It seems to me we either have to get political support for all aspects of the whole cycle or we leave ourselves a critically, perhaps fatal, flaw or weakness in the nuclear industry.

You can't do the relicensing and go through all of this process and get most of the industry back on track and leave a politically unacceptable element, whether it is waste disposal, fuel reprocessing or any of the other sides to it.

Dr. ROSSIN. In principle, Senator, I couldn't agree more. I think the vulnerability of nuclear power partly has been because it is possible that those opposed to it can pick out one of the pieces of this infrastructure and make it nonviable and, in that event, we do have trouble getting the whole picture back together.

I think nuclear power can remain viable temporarily storing the spent fuel. We certainly can go ahead with this, but we have an obligation as a society to dispose of our wastes. I think we know how to do it safely. And I think ultimately it will be done.

Senator EVANS. One final question. I have had the opportunity to visit EPRI and spend a day there. I am fascinated by what is going on, and I am sure you were equally fascinated by your experience there and the work that is being done.

I think it is in the finest sense cooperative research and, hopefully, will work along with what we ought to be doing in research as well.

I get the impression from that and from my own service on the Pacific Northwest Power Council that fuel cells, extensive conservation practices, cogeneration, other elements are all coming to the floor.

Is it possible, do you think, is it possible that as we look to the future we may be continuously looking at yesterday's rather than tomorrow's technology when we talk about central station large plants with long lead times, even at best they are long lead times, and so I am not talking specifically about nuclear, but about coal, nuclear, as opposed to these other more incremental and at least currently more desirable, from the utility's standpoint, methods of production?

Dr. ROSSIN. In the long run, if we are going to serve the public well with reliable and economical power, we are going to need more central station powerplants.

Dispersed sources can only be a help and they can be an important help, but they need a strong, reliable grid that is able to provide the backup power that make those small decentralized sources viable. They can't do it alone.

And in terms of economics, unfortunately the laws of economics tell you that economies of scale do exist and will continue to exist.

Our problem right now is that we have, for regulatory and other reasons, made it difficult for the large plants to compete in the marketplace. There will come a time when they will compete again. And when they do, utilities will make the appropriate choices. But, as I said before, diversity, I believe, is very important and we ought to maintain that diversity.

And that means that if alternatives can play an appropriate role, they should do so.

Senator EVANS. Mr. Chairman, I have several other written questions I will submit for the record.

The CHAIRMAN. Thank you.

Senator Domenici.

Senator DOMENICI. Thank you very much, Mr. Chairman. Thank you, Senator Evans. I am late for the meeting I am already supposed to be at, so I will try to make this quick, Dr. Rossin, but I do want to focus in on the uranium industry and that portion of the cycle and uranium enrichment.

Do you think we should have a domestic uranium industry?

Dr. ROSSIN. It goes along with a lot of the discussion that has taken place today—that is, there is a lot of value for the security of the Nation in having domestic resources available for our energy supply needs. I think we ought to.

Senator DOMENICI. Let me say I sense a slight hesitation on your part in being very forthright on the issue, so let me just phrase it another way.

Regardless of your persuasion, regardless of the persuasion of the Trade Ambassador of the United States, do you read the existing law of the United States on the books unrepealed requiring that we have a viable domestic uranium industry?

Dr. ROSSIN. As I understand this law, it says that if the Secretary of Energy can make a finding that the uranium industry is not viable, and he made that finding earlier this year, I wasn't a party

to that, but that finding was published, then the law says that there are actions that the Secretary should take.

The question is whether those actions would help make that industry more viable.

Now, these are tied up at this point in a complicated lawsuit, and I have concerns about whether those actions in themselves would solve the problems that we are trying to solve.

The basic problem is that the demand for uranium that was projected years ago when we had a lot more plants planned, that situation is changed.

Senator DOMENICI. That is absolutely true, but you are not implying, are you now, that this country which in 1976 had 362 uranium mines, now has 3, employment of 13,700 and now it is down to less than 2,000, you are not contending that that is a viable uranium industry, are you?

Dr. ROSSIN. No.

Senator DOMENICI. You are not contending that we missed the boat that much in our estimates, are you, that we should have none because there has been a 10- or 12-year hiatus in the production in the orders for new nuclear plants in the United States?

Dr. ROSSIN. I didn't understand your last remark. I am not saying that the cause and effect is quantitative, but in addition to the lack of new orders, a lot of plants that were planned and some that were even started in construction, and a couple that were even completed, are not operating, and that has had a dramatic effect on the projected demand for uranium.

At the time, many of those mines went into operation, they and the rest of the industry were looking ahead to a lot more plants.

Senator DOMENICI. Let me move ahead then. You are aware, apparently, of U.S. District Court Judge Carrigan's decision. He signed an order which enjoins DOE from enriching 25 percent of foreign origin uranium for domestic use through 1986 and no foreign uranium after 1987.

What do you perceive the impact of that on the enrichment program of that court order, do you have any idea?

Dr. ROSSIN. It is very complex, and I know that the staff of the department is studying it and, if confirmed, I will get involved in those deliberations.

I know that some of the utilities are very concerned about whether they will cancel contracts or not engage in future contracts for uranium enrichment in the United States as a result of that decision unless things are changed.

Senator DOMENICI. So basically if the decision causes utilities to cancel contracts for enrichment, would that increase the cost of enrichment for defense uses because of the fixed costs in the program?

Dr. ROSSIN. I think the economics says that that would be true. I haven't studied it, but that makes sense to me.

Senator DOMENICI. In the past, the administration has expanded the enrichment program and the expense has been presumed to be borne by the uranium industry, but the act says that we are also to maintain a viable industry.

What is your intention as far as the enrichment program, have you formulated some ideas?

Dr. ROSSIN. Once again, because I am not confirmed, I haven't been a party to the real discussions on this point, but I would like to see the uranium enrichment enterprise run as a business.

I would like to see the U.S. enrichment program have competitive pricing so that it is attractive to U.S. utilities to make use of U.S. enrichment.

And I would like to see it hold its own and be a sound business venture.

Senator DOMENICI. Do you agree with the basic premise, Doctor, that if the civilian customers had to repay a share of enrichment that properly was attributable to the defense programs that the only thing that could cause was an increase in the civilian nuclear electricity costs?

Dr. ROSSIN. Once again, that is straightforward economics. If more money has to be paid, the price is going to have to go up.

Senator DOMENICI. Are you aware that DOE has testified before the committee that the cash debt should be repaid by the civilian customers through the Treasury, and that that amount was $350 million if the military had been charged for the enrichment services?

I am not asking you if you agree with that.

Dr. ROSSIN. I have read the testimony; yes, sir.

Senator DOMENICI. It has been said by your department?

Dr. ROSSIN. By the department that I am being considered for.

Senator DOMENICI. Yes. Now, have you been exposed to the proposed legislation that we are preparing dealing with the fuel cycle problem as it pertains to enrichment, mining, and the disposition of the uranium piles in the mining states, have you looked at that legislation?

Dr. ROSSIN. Yes, I have.

Senator DOMENICI. Would you be able to review that and provide us with your comments in the not too distant future if you are confirmed?

Dr. ROSSIN. I would prefer to do it if I am confirmed, rather than now because I think it is difficult for me to do that until I begin to participate in the activities of the department.

Senator DOMENICI. My question was, if you are confirmed, could you do it quickly thereafter? I would not impose that on you, and it requires some policy discussion, and I wouldn't ask you to do it in advance of confirmation.

Mr. ROSSIN. Yes, sir.

Senator DOMENICI. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you. All members will have until the close of business on today to submit questions in writing for a response in writing.

Thank you very much, Dr. Rossin, for your testimony.

The CHAIRMAN. Our next witness is Mr. Garrish, who has been nominated to the position of Federal inspector of the Alaska Natural Gas Transportation System, which is an independent agency within the executive branch.

As Federal inspector, Mr. Garrish will report directly to the President. The inspector general has exclusive responsibility for the enforcement of terms, conditions, and stipulations of grants,

certificates, permits and other authorizations issued by Federal agencies with respect to the system.

Mr. Garrish is no stranger to the members of this committee. He has appeared before us as a nominee on two prior occasions, first as general counsel of DOE, and most recently as DOE Assistant Secretary for Congressional, Intergovernmental and Public Affairs.

Mr. Garrish has developed a good working relationship with this committee, which I am sure will be continued as he carries out his new duties.

In spite of the fact that you have certain duties, we still require that you be sworn with respect to this testimony.

[Whereupon, Theodore J. Garrish was duly sworn by the chairman.]

The CHAIRMAN. We have two statements by members of the committee to be placed into the record at this point, one by Senator Murkowski and one by Senator Warner. Those will be made a part of the record at this point.

[The prepared statements of Senators Warner and Murkowski follow:]

STATEMENT OF SENATOR JOHN WARNER
BEFORE THE ENERGY AND NATURAL RESOURCES COMMITTEE
DIRKSEN BUILDING-ROOM 366
JULY 15, 1986

MR. CHAIRMAN, IT IS MY PLEASURE TO INTRODUCE A FELLOW VIRGINIAN, THEODORE J. GARRISH, AS THE PRESIDENT'S NOMINEE FOR FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM.

MR. GARRISH POSSESSES A STRONG BACKGROUND IN ENERGY ISSUES, AND IS AMPLY SUITED TO ASSUME THE POSITION FOR WHICH HE HAS BEEN NOMINATED. AS ASSISTANT SECRETARY OF ENERGY FOR CONGRESSIONAL, INTERGOVERNMENT AND PUBLIC AFFAIRS, MR. GARRISH HAS WORKED DILIGENTLY WITH THIS COMMITTEE TO ADDRESS A WIDE RANGE OF ENERGY ISSUES. BEFORE ASSUMING THE POSITION OF ASSISTANT SECRETARY, HE SERVED AS GENERAL COUNSEL AT THE DEPARTMENT OF ENERGY WHERE HIS LEGAL ADVICE WAS WIDELY RESPECTED AND TOUCHED ON EVERY MAJOR ISSUE FACED BY THE DEPARTMENT.

NOR IS HE A STRANGER TO THE KINDS OF ISSUES ADDRESSED AT THE DEPARTMENT OF THE INTERIOR. HE SERVED AS LEGISLATIVE COUNSEL THERE AFTER HAVING DEALT EXTENSIVELY WITH SUCH ISSUES FOR SEVERAL YEARS IN PRIVATE PRACTICE.

MR. GARRISH BRINGS TO THE ROLE OF FEDERAL INSPECTOR A DIVERSE BACKGROUND THAT IS UNIQUELY SUITED TO THE PROBLEMS HE WILL FACE IN THAT CAPACITY. I STRONGLY RECOMMEND HIM, AND AM HAPPY TO PRESENT HIM TO THIS COMMITTEE.

Frank H. Murkowski

STATEMENT OF SENATOR FRANK H. MURKOWSKI

COMMITTEE ON ENERGY AND NATURAL RESOURCES

CONFIRMATION HEARING OF THEODORE J. GARRISH

FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

TUESDAY -- JULY 15, 1986 10 :00 AM

MR. CHAIRMAN

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO EXPRESS MY SUPPORT FOR THE NOMINATION OF THEODORE J. GARRISH TO BECOME FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM.

THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM IS IMPORTANT TO ALASKA AND TO THE NATIONAL INTEREST. IT IS THEREFORE IMPORTANT TO HAVE SOMEONE IN THIS POSITION WHO HAS BOTH A KNOWLEDGE OF ALASKA AND OF NATIONAL ENERGY POLICY. MR. GARRISH IS SUCH AN INDIVIDUAL. I MIGHT ADD THAT I HAD THE OPPORTUNITY TO MEET WITH MR. GARRISH LAST WEEK WHILE HE AND SECRETARY HERRINGTON WERE IN ALASKA.

THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1975 ESTABLISHED THE PROJECT. PRESIDENTIAL PROCLAMATION CREATED THE FEDERAL INSPECTOR POSITION IN 1979 IN ORDER TO COORDINATE ALL FEDERAL ACTIVITY AS IT RELATES TO THE PROJECT. THE OFFICE OF FEDERAL INSPECTOR, THROUGH ITS OVERSIGHT AND ENFORCEMENT DUTIES,

CAN ENSURE ACTIVITIES REGARDING THE PIPELINE ARE COORDINATED AND MANAGED WELL.

THIS POSITION REQUIRES A COMMITTMENT TO THE PROJECT, A STRONG BACKGROUND IN SUBSTANTIVE ENERGY ISSUES, AND A DIVERSE RANGE OF EXPERIENCE IN REGULATORY AND ADMINISTRATIVE MATTERS. MR. GARRISH HAS THESE QUALIFICATIONS. IN ADDITION, HIS PERFORMANCE AT THE DEPARTMENT OF ENERGY IN HIS CURRENT ROLE AS ASSISTANT SECRETARY FOR CONGRESSIONAL, INTERGOVERNMENTAL AND PUBLIC AFFAIRS HAS BEEN EXEMPLARY, AS WAS HIS PERFORMANCE AS THE DEPARTMENT'S GENERAL COUNSEL, THE POSITION HE HELD BEFORE BECOMING ASSISTANT SECRETARY. HE HAS DEMONSTRATED A COMMITMENT TO THE HIGHEST STANDARDS OF PROFESSIONALISM, AND HAS CONSISTENTLY CONDUCTED HIMSELF IN A MANNER BEFITTING A GOVERNMENT OFFICIAL.

IN ADDITION TO HIS EXPERIENCE AT THE DEPARTMENT OF ENERGY, MR. GARRISH HAS EXTENSIVE BACKGROUND IN ISSUES UNDER THE JURISDICTION OF THE INTERIOR DEPARTMENT WHERE HE SERVED AS LEGISLATIVE COUNSEL. HE WAS ALSO ACTIVELY INVOLVED IN SUCH ISSUES WHILE IN PRIVATE PRACTICE.

WHILE THE PROJECT IS CURRENTLY ON HOLD, THIS APPOINTMENT IS A STEP IN THE RIGHT DIRECTION FOR MEETING THE OBLIGATIONS OF THE 1975 ACT. AS THE PROJECT BEGINS TO GEAR UP, THE MECHANICS WILL ALREADY BE IN PLACE SO THAT WORK CAN COMMENCE IN A TIMELY MANNER.

ALASKA'S NATURAL GAS RESOURCES ARE ABUNDANT AND IMPORTANT TO OUR NATION'S ENERGY SECURITY. HAVING AN INDIVIDUAL OF MR. GARRISH'S CALIBER IN THE POSITION OF FEDERAL INSPECTOR WILL ENSURE THAT THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM PLAYS AN EFFECTIVE ROLE IN THE DEVELOPMENT OF THESE RESOURCES. I URGE EXPEDITIOUS PASSAGE OF THIS NOMINATION.

The CHAIRMAN. You are familiar with the questions which are asked of all nominees.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Mr. GARRISH. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Mr. GARRISH. I have no objection to that.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Mr. GARRISH. My investments, personal holdings, and other interests have been reviewed by myself and the appropriate ethics counselors within the Federal Government.

I have taken appropriate action to avoid any conflicts of interest. There are no conflicts of interests or appearances thereof to my knowledge.

The CHAIRMAN. Are you involved in or do you have any assets held in a blind trust?

Mr. GARRISH. I do not.

The CHAIRMAN. I believe you have your son with you this morning. Would you care to introduce him?

Mr. GARRISH. Mr. Chairman, I would like to introduce my son John, who was able to get away from his summer job to come down and join us today.

The CHAIRMAN. Glad to have you with us, John.

Your entire prepared statement will be placed in the record in full. You may deliver or summarize in whatever manner you prefer.

STATEMENT OF THEODORE J. GARRISH, NOMINEE TO BE FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Mr. GARRISH. In the interest of time I will try to summarize some important points, Mr. Chairman.

First, I would like to say thank you for the honor to be here in front of this committee. I have appreciated the tremendous support that you personally and the other members of this committee have provided over the years on many energy activities and natural resource questions that we have brought before the committee in the past.

I appreciate the opportunity to appear as the President's nominee for the Alaska Natural Gas Transportation System as Federal Inspector.

I believe the project is important and I am committed to its development.

The Alaska Natural Gas Transportation System is critical to making Alaska's abundant natural gas supplies available to American consumers in the lower 48 States. Alaska natural resource reserves are substantial. The North Slope is estimated to hold approximately 26 TCF of proven reserves. The total Alaska natural gas potential is even more impressive. The U.S. Geological Survey has estimated that Alaska holds up to 107 TCF of undiscovered recoverable gas. The Alaska Natural Gas Pipeline can open this gas supply to all Americans. And I believe that access to this important domestic resource will enhance this Nation's energy security.

The greater availability of natural gas means, in addition, decreased reliance on foreign oil and provides that additional advantage. The promise of these resources, however, depends on ensuring the means of bringing the Alaskan natural gas to the entire Nation. I view the Alaska Natural Gas Transportation System as vital to this effort. As Federal inspector, I would be committed to the efficient development of the Alaska Natural Gas Pipeline. This means working with the project sponsors and maintaining a source of contact for issues and problems that may arise in that process.

Additionally, I believe that it is important to maintain the readiness for the project's remobilization. Effective remobilization will be necessary to minimize the delay in making these Alaska natural gas resources available to the entire nation and to assure that the project activity can be reestablished quickly.

As you know, my commitment to the project would be supported by a background of involvement in energy issues. Both as Assistant Secretary of Energy and formerly as general counsel of the Department of Energy I have been extensively involved in natural gas issues and would hope to continue so.

In addition to that, as I think you are also aware, I was involved at the Department of the Interior in several natural resource issues there, which will be useful in this new endeavor.

Mr. Chairman, the Alaska Natural Gas Transportation System can play a critical role in the development of Alaska's natural gas industry and resources and enhance our national security in the energy field.

I would bring to that position a commitment to this project, and I believe my background would help enable me to meet the responsibilities of that office.

I would be prepared to answer your questions.

[The prepared statement of Mr. Garrish follows:]

STATEMENT OF

THEODORE J. GARRISH
NOMINEE FOR FEDERAL INSPECTOR OF THE ALASKA NATURAL GAS
TRANSPORTATION SYSTEM

Before the

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

JULY 15, 1986

Mr. Chairman and Members of the Committee, I appreciate the opportunity to appear before you as the President's nominee for Federal Inspector of the Alaska Natural Gas Transportation System (ANGTS).

I think most of you are well acquainted with me. I have worked with you during my tenure as General Counsel at the Department of Energy, and most recently as Assistant Secretary of Energy for Congressional, Intergovernmental and Public Affairs. I believe we have formed a good working relationship, and, if confirmed, I believe we can continue to work together to address the issues involving both the Office of the Federal Inspector for the Alaska Natural Gas Transportation System and the Department of Energy.

I am confident that I can bring to the position of Federal Inspector a strong background in energy issues and resource management. I have spent a good part of my career in government addressing such issues, including work at the Department of the Interior and as an attorney in private practice. I will be able to call on this background as well as my experience at the Department of Energy in fulfilling the responsibilities of the Office of Federal Inspector.

OBJECTIVES

I would like to discuss what I view as a couple of the key objectives for the Office of Federal Inspector.

Ensure Presence of the ANGTS: I believe a major function of the Office is to maintain and ensure the presence of the ANGTS. It is important that the project's continuity be maintained if the system is to fulfill the role which fostered its genesis.

Because of delays in the construction of the Alaskan segment of the project, reductions have occurred in both the workload and the size of the Office of Federal Inspector. This response to the decline in project activity, however, should not obscure the importance of the system. The availability of abundant Alaska natural gas supplies promises enormous benefits to consumers and this Nation's future energy security. The ANGTS is criticial to ensuring that availability. If confirmed, I will work to maintain the project's position as a vital component of our energy future.

Ensure Preparation for Remobilization: I believe it is critical to maintain the readiness of the project for remobilization, thereby assisting a smooth and orderly reestablishment of project activities. It is anticipated that construction of Phase II of the project, the Alaska and northern Canadian portions, will be remobilized in the early 1990's as natural gas markets stabilize and financing prospects improve for the entities participating in the project's construction. The Office of Federal inspector can aid the preparation of this process by working with the project's participants to ensure the coordination of designs and plans for construction of Phase II of the system. Moreover, the ongoing responsibility of communicating and negotiating with project sponsors, and the Canadian Northern Pipeline Agency, plays a part in steering the project away from difficulties which might otherwise delay or obstruct the remobilization process.

A great deal has been done to promote a more stable and secure energy future for this country. Much of this progress is the result of reducing federal actions which stifle the ability to develop and produce our lowest cost energy resources. The Office of Federal Inspector can play a leading role in ensuring that federal action with respect to the Alaska Natural Gas Transportation System promotes the safe and orderly development of this project without hindering the fulfillment of its promise. I would be happy to answer any questions you may have.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Garrish. You are very well known to members of this committee.

As I said in my introductory statement, you have developed a good working relationship with us. I have no doubts concerning your capacity to do that, and I was very happy to see the nomination.

I do have one concern, however. By statute, Congress has designated this to be an independent agency with you reporting directly to the President of the United States.

As I understand the arrangement, you are to retain your present job and add to it a second portfolio or another half.

Does it trouble you at all that you would be a part of an executive branch agency with you as an Assistant Secretary reporting to the Secretary of the Department of Energy and, at the same time, the head of a so-called independent agency reporting directly to the President of the United States?

Mr. GARRISH. The relationship with the Department of Energy is at this time a relationship involving support and administrative services.

On questions of policy my views would be provided independent of the Secretary of Energy on behalf of the administration for the President.

The CHAIRMAN. What happens if you and he have different opinions as to what that policy ought to be?

Mr. GARRISH. I believe I would provide this committee with my opinions, as I see the policies.

The CHAIRMAN. Wouldn't you be a little uncomfortable?

Mr. GARRISH. I would be uncomfortable, indeed.

The CHAIRMAN. I would think it would be an almost untenable position. It might have been preferable had we been asked to amend the statute to remove you from that ambiguity.

However, I am not going to question that other than just raising the issue, because I think that we all understand that the situation with respect to the pipeline is quite different today, and this is a very practical arrangement to save the taxpayers some money and, at the same time, making certain that the necessary work that is being completed and carried forward is completed and carried forward appropriately. But I would think that if anything occurs to increase the level of activity with respect to the pipeline, other arrangements might have to be made.

Would you agree?

Mr. GARRISH. Yes, I would agree completely, and I think in the long run remobilization of the Alaska pipeline project, the plans are that at such time as a market signal is received to resume pipeline activity and the project begins remobilization, one of the first concerns to be addressed will be the requirement for a full-time inspector, and the requirement for a full-time office and resources to implement it.

With regard to your comments, first, I do want to say that in this administration we have been very successful in trying to work for one energy policy under the President's direction.

I do not anticipate any conflict in the future, especially in the role of the Federal inspector as it exists now. And in the future, if it were required and we needed more independence, that is one of the first issues that would be addressed in the remobilization.

The CHAIRMAN. Mr. Garrish, I know at one point Secretary Herrington and the President were at odds on what ought to be done with the Synthetic Fuels Corp.

Secretary Herrington went to great lengths to state that he was stating his own personal opinion independently of the President, but it was not the administration's position.

I only mention that because conflicts are possible. I don't anticipate that there will be any here, because I don't believe the level of the issues would indicate that kind of a conflict likely, but I would be concerned if, indeed, it did happen, that somehow we could extricate ourselves from that difficulty very quickly by changing the assignment of personnel.

Mr. GARRISH. I am very sensitive to your views on this issue, and at the appropriate time I would be happy to consult with you if you felt that that was a situation developed that we needed to address.

The CHAIRMAN. Thank you very much. I have no further questions at this time.

The members of the committee may have until the close of business on today to submit their questions in writing. Thank you again.

Our final witness today is Richard H. Francis, the nominee to be President of the Solar Energy and Energy Conservation Bank.

Dr. Francis has served as Manager of the Bank since June 1982. Beginning in 1971, Dr. Francis held senior positions in educational and housing organizations, and he has served for 20 years as an officer in the U.S. Marine Corps.

Dr. Francis is a graduate of the U.S. Naval Academy. He received his masters degree from Yale University and his Ph.D. from the University of Maryland.

I might briefly describe the somewhat unique history of this nomination. Dr. Francis was first nominated to be president of the Bank in September 1983. His nomination was resubmitted in January of each year for the next 3 years.

This committee held a hearing on the nomination in February 1984. The nomination was favorably reported in September of that year, but no action was taken by the Senate and the nomination lapsed.

Each year the nomination was jointly referred to both this committee and the Committee on Banking, Housing, and Urban Af-

fairs. That committee favorably reported the current nomination of Dr. Francis on March 13 of this year.

It would certainly be my hope that we will act without further delay and finally confirm this particular nomination.

Dr. Francis, if you would rise and raise your right hand, please.

[Whereupon, Richard H. Francis was duly sworn by the chairman.]

The CHAIRMAN. Having been through this before you are familiar with our ritual.

Will you be available to appear before this committee and other congressional committees to represent departmental positions and respond to issues of concern to the Congress?

Dr. FRANCIS. I will.

The CHAIRMAN. Your informational statement has been submitted to the committee. However, it is required that this statement be made public unless the committee decides that special circumstances justify an exception.

Do you have any objection to the publication of your informational statement?

Dr. FRANCIS. I do not.

The CHAIRMAN. Are you aware of any personal holdings, investments or interests that could constitute a conflict of interest or create the appearance of such a conflict should you be confirmed and assume the office to which you have been nominated by the President?

Dr. FRANCIS. I am aware of none.

The CHAIRMAN. Are you involved in or do you have any assets held in blind trusts?

Dr. FRANCIS. I do not.

The CHAIRMAN. Dr. Francis, your statement will be made a part of the record in full at this point. You may deliver that statement or summarize in whatever manner you see fit.

STATEMENT OF DR. RICHARD H. FRANCIS, NOMINEE TO BE PRESIDENT, SOLAR ENERGY AND ENERGY CONSERVATION BANK, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Dr. FRANCIS. It is a brief statement, Mr. Chairman.

I will read it, please.

Mr. Chairman, and members of the committee, I am pleased to appear before you as President Reagan's nominee for the position of President of the Solar Energy and Energy Conservation Bank at the Department of Housing and Urban Development. As you know, and was just stated, I have been acting as Chief Operating Officer of the Bank since its reactivation in this department in June 1982. I believe that my record demonstrates my commitment to the effective operation of this program.

As it is currently constituted, the Bank operates through the States and in some instances local communities under State auspices to provide either loans to eligible persons directly using State funds or funds provided by financial institutions. In either case the Bank does not make direct loans to individuals. Instead, financial institutions, which include private lending institutions, public utilities, nonprofit organizations, as well as State and local govern-

ments, make loans for solar energy and energy conservation projects. States receive a letter of credit from the Bank providing funding with which to subsidize these loans by buying down the interest rate or the principal, and in some circumstances provide matching grants based on income criteria.

The Bank has established levels of assistance for energy conservation and solar energy applications according to the statute. Loan subsidies to homeowners and tenants range from 20 to 50 percent of the loans for qualified energy conservation improvements and up to $5,000 for loans for qualified solar energy measures. Other subsidy levels apply to multifamily residential buildings and nonprofit commercial and agricultural buildings.

To date, approximately $60.2 million of the appropriations of fiscal year 1982 to 1985 of $81.85 million has been expended to provide financing for 80,568 projects in 50 States and territories. The attached program status summary provides detailed up-to-date information on the status of program funds. As this summary demonstrates, the Bank program is underway in 50 States and territories.

In my judgment this program has been intelligently developed so that each State has been able within broad parameters to tailor solar and energy conservation programs to its unique needs and circumstances. For example, Ohio focuses solely on residential single-family energy conservation using loan subsidies, while the State of Washington only subsidizes solar projects. On the other hand, New Jersey subsidizes both, and Oklahoma employs its funds in the form of grants for both residential single and multifamily energy conservation.

In most instances, however, regardless of the manner in which the State program has been structured, over the years we have achieved a high level of cooperation from the private sector. As a result, millions of dollars of worthwhile energy conservation and solar energy projects have been carried out around the country.

Secretary Pierce, who is the Chairperson of the Bank's Board of Directors, and I, have always been committed to using all funds appropriated for the Bank in the most effective and efficient manner possible in accordance with current policies as long as the Congress chooses to fund the program. To this end we have sought to respond to every request for assistance by the States in setting up their individual programs through numerous phone conversations and staff visits along with publication of a series of questions and answers. I have worked closely with two advisory boards established according to the statute, and have maintained constant contact with interested private sector groups. Two national workshops have been held and a Bank newsletter published.

I am convinced that the program I have developed has resulted in a very effective economical operation which has precluded fraud, waste and mismanagement; thus, directing maximum funding toward program objectives. I want to assure you, Mr. Chairman, each member of this committee and the Congress, that I have attempted to act in the best interest of the citizens of this country, whom we all serve, to implement this program in a fair and effec-

tive manner in accordance with all governing statutes. And I assure you that it is my intention to continue to do so.

I will be happy to respond to any questions you might have.

[The attachment to Dr. Francis' statement follows:]

SOLAR ENERGY AND ENERGY CONSERVATION BANK
PROGRAM STATUS SUMMARY
June 30, 1986

FUNDING CATEGORIES	FUNDS OBLIGATED		FUNDS EXPENDED			
	Dollars (000)	Planned Use (%)	No. of Projects	Dollars (000)	% of Funds Expended	% of Obligated Funds
Administrative and Promotional....	7,616	9.56	---	4,707	7.81	61.80
Program.....	72,044	90.44	80,568	55,566	92.19	77.13
Loan Subsidies.....	41,122	57.08	35,542	31,146	56.05	75.74
Grants.....	30,921	42.92	45,026	24,420	43.95	78.97
<80% Median Area Income.....	43,754	60.73	59,430	35,898	64.61	82.05
80% - 150% Area Income.....	13,310	18.47	15,983	9,321	16.77	70.03
No Income Limitation.....	14,980	20.79	5,155	10,346	18.62	69.07
1-4 Family Conservation.....	50,812	70.53	71,836	42,589	76.65	84.26
1-4 Family Solar.....	8,709	12.09	4,144	6,916	12.45	79.41
Multifamily Conservation....	9,739	13.52	4,470	5,084	9.15	52.21
Multifamily Solar.....	690	0.96	12	162	0.29	23.53
Commercial/Agricultural Conservation.....	1,122	1.56	78	203	0.37	18.10
Commercial/Agricultural Solar.....	972	1.35	28	611	1.10	62.87
Total.....	79,660	100.00	80,568	60,272	100.00	75.66
Change from Previous Month.....	-187	---	+1,659	+1,522	---	+2.08

PARTICIPANT STATUS

55 Number of participants; 0 change from last month
50 Number of participants who have expended Bank funds; 0 change from last month

The CHAIRMAN. Thank you very much. I recall that when you last appeared before this committee in 1984 you expressed certain misgivings about whether the Bank was the best means among several alternatives for achieving energy conservation goals.

Now that 2 more years have elapsed, how would you describe your commitment to the Bank's program and operations?

Dr. FRANCIS. I expressed at the time a position that the administration has held, that there are other viable alternatives to the Bank.

I must say, however, that in the last 2 years we have seen a lot of very effective program activity in response to this Bank's efforts to perform all around the country.

I will say that within the 50 States with which we have a program relationship, we have been able to achieve many good things and we have have leveraged a lot of conservation and solar activity.

So I will say that the Bank has succeeded in performing its function, and while I still feel that there probably are a number of ways of looking at this, the Bank has done a very effective job in performing its tasks.

The CHAIRMAN. When you testified previously you defended your decision to rely on State and local programs as the conduit for Bank funds.

On the basis of your track record over the last 2 years, are you satisfied that that is the best approach?

Dr. FRANCIS. I think that decision has been vindicated by the circumstances. We looked at this program, as you know, in 1982 and saw a national program which had been truncated fiscally by a much smaller appropriation than originally envisioned.

Therefore, we didn't want to waste a lot of money in national promotion and relationships with financial institutions around the country.

In using the States as the conduit for these funds, we have been able to employ their special relationships with these financial institutions and public utilities in each State and, more importantly, we have been able to tailor these programs to match the specific needs in each part of the country.

Also, I believe that because of this program at HUD we have been able to stimulate an interrelationship with other DOE and HHS energy programs, which has had a synergistic consequence, and provided, I think, a more effective program in all three departments.

And, finally, because we have used the States as this conduit, I think we have stimulated activity which will continue long after this program has been long ended.

So I think it was a very sound decision to use the States, Mr. Chairman.

The CHAIRMAN. I am looking at the table which is attached to your statement. You have "Funds Obligated" in one category and two columns and "Funds Expended" in another column and then you make certain percentage comparisons.

What percentage of the funds available to you have been obligated?

Dr. FRANCIS. All the funds we have available are obligated with the small exception of some recaptures that have come to us, which don't amount to more than $1 or $2 million at this point.

So all of the funds we have are obligated in accordance with law. The only recaptures we have are those that are end of State obligation terms.

The CHAIRMAN. As I recall, these funds are available until expended?

Dr. FRANCIS. They are available through a period of time until expended. We decided, as we may have discussed before, that we should give the States a certain length of time so as not to leave Federal funds floating in limbo for years to come.

So we have told each State you have a period of time in which to expend these funds. We recapture them and then reallocate them to other States.

The CHAIRMAN. They don't go back to the Treasury, however?

Dr. FRANCIS. They do not.

The CHAIRMAN. The funds obligated, and you have indicated that all of the funds that have been appropriated have been obligated except for the recapture, and that includes the carryover funds from previous fiscal years?

Dr. FRANCIS. That's correct.

The CHAIRMAN. Can you tell me why there seems to be a greater lapse or a greater difference between obligated and expended funds on multifamily solar?

Dr. FRANCIS. I believe that the solar part has not been picked up in too many areas because, quite frankly, the tax credits were available, in fact, up until the end of last year for that purpose and, of course, many States had energy conservation programs which they wished to pursue.

For example, Montana utilized the Solar Bank funds to dovetail with its Department of Energy funds to take care of replacement furnaces which were not included in the DOE program.

So that what they have done is to have their energy programs, energy conservation activity, and the Solar Bank has been dovetailed with them.

Washington State, for example, however, used all of these funds for solar and a number of States have tried both, but I think solar, of course, is a new technology and it is not well understood by a lot of people.

As I pointed out, there were a lot of tax credits available up until recently for that purpose.

The CHAIRMAN. I note that you have 12 projects, but only $162,000 of $690,000 have been expended.

Is that a result of the lack of applications or lack of interest or is it the result of the manner in which you are administering the program?

Dr. FRANCIS. It is the former because we have made available and encouraged total application of all funding possibilities within the statute and within the regulations.

Each State and each jurisdiction has chosen how they wish to administer the program.

The CHAIRMAN. Do you mean there is no real interest in this program on the part of the States?

Dr. FRANCIS. Apparently not. In fact, the multifamily solar, if I recall, was primarily an interest in New York State, but there is very little interest elsewhere.

The CHAIRMAN. I notice that only about 20 percent of the funds obligated have been expended in the commercial/agricultural conservation area?

Dr. FRANCIS. Again, this is, I think, a matter of the program operating jurisdictions. We made this available to these jurisdictions at their request subsequent to the initial issuing of the regulations. This is a subsequent opening of this program to the commercial/agricultural sections.

I believe certain Members of the House asked for us to do this, and we did so but, again, I think there is limited interest when there is such widespread interest in other aspects of the program.

It is not so much that we have not emphasized it. It is that the States and local governments have not taken it up.

The CHAIRMAN. Are they aware that there is money available there that is not being utilized?

Dr. FRANCIS. They could utilize it for this purpose if they wish. All of the funds they have, as long as they have established the parameters within which the State will operate, are available to them for any purpose they wish as long as they are in accordance with Bank's reputation.

The CHAIRMAN. You say that program is relatively new. How long has that been available to the States?

Dr. FRANCIS. I believe it is a year or two. I can't be sure. It seems to me it was sometime in 1984 that this came about.

I could tell you for the record. I just don't know for sure.

The CHAIRMAN. I wonder if in three categories in which you have a very, very small number of projects, multifamily solar, in which you have 12 projects, commercial/agricultural conservation, 78 projects, and commercial/agricultural solar you have 28 projects, could you tell me, provide for the record, the number of applications for projects which you have received?

Dr. FRANCIS. I will do that, Mr. Chairman.

The CHAIRMAN. Thank you very much.

All members of the committee may have until the close of business on today to submit questions in writing for a response in writing.

Thank you very much.

That concludes the hearing this morning. The committee will stand adjourned.

[Whereupon, at 12:26 p.m., the hearing was adjourned.]

[Subsequent to the hearing, the committee received the following letter in support of Dr. Francis:]

[ACEC File No. 729.0]

AMERICAN CONSULTING ENGINEERS COUNCIL,
Washington, DC, July 1, 1986.

Hon. JAMES A. MCCLURE,
Chairman, Energy and Natural Resources Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR MCCLURE: This letter is in support of Richard Francis to be president of the Solar Energy and Energy Conservation Bank.

The American Consulting Engineers Council has been involved in Solar Bank activities by having a representative on the Advisory Committee for the past several years and has found Dr. Francis to be a fair and able administrator of the program. As an organization with many firms involved in the solar industry, we know he will fulfill the requirements of the law in bringing the Bank to an end as mandated. Dr. Francis deserves the official recognition as president after faithfully serving many years in an acting capacity.

Very truly yours,

JIM COYNE.

APPENDIXES

APPENDIX I

Biographies and Informational Statements of the Nominees

MARSHALL A. STAUNTON

Marshall A. Staunton was appointed Acting Administrator of the Economic Regulatory Administration, U.S. Department of Energy (DOE) in October 1985. In this position, he is responsible for the enforcement activities and regulations of the importation and export of natural gas and electricity. In the performance of these duties, he is called upon to negotiate settlements involving millions of dollars.

Previously, Mr. Staunton served in the newly established position of Deputy Administrator for Enforcement, where he was responsible for the overall supervision and coordination of the new enforcement program components.

Prior to joining DOE in January 1985, Mr. Staunton served as Legislation and Services Counsel for the Bechtel Group, Inc., in San Francisco, California, from 1981 to 1984. In this position, he advised senior management on legislation in U.S. and foreign jurisdictions affecting company business. Mr. Staunton had been associated with the Bechtel Group since 1974, where he held a variety of positions including, Chief Counsel for Litigation and Legislation, Chief Counsel for the Bechtel Corporation, and Bechtel Power Corporation, Counsel for Europe and North Africa, and Counsel to Alyeska Pipeline Project.

Mr. Staunton was a partner in the law firm of Johnson & Stanton in San Francisco, from 1960 to 1974, where he specialized in corporate financing, mergers, acquisitions, governmental relations, commercial and antitrust litigation, and contractor claims. From 1957 to 1960, Mr. Staunton served as Law Clerk to an Associate Justice on the California Supreme Court.

Mr. Staunton received his A.B. degree in the classics from Brown University in Providence, Rhode Island. He received his J.D. degree from Stanford Law School in Stanford, California in 1957. Mr. Staunton is a member of the American, California and San Francisco Bar Associations. He served in the U.S. Marine Corps as a Captain.

Mr. Staunton is married and has four children.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: STAUNTON (LAST) MARSHALL (FIRST) ALFRED (OTHER)

Position to which nominated: Administrator, Economic Reg. Admin. Date of nomination: March 24, 1986

Date of birth: 17 (DAY) 12 (MONTH) 28 (YEAR) Place of birth: Milwaukee, Wisconsin, USA

Marital status: Married Full name of spouse: Ruby (RB) Bonn Scudder

Name and ages of children: Melissa 15; Jocelyn 12; By previous marriage; Susan 21; Julia 19

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Brown University	1947-1951	A.B.	1951
Stanford University	1954-1957	J.D.	1957

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Capt. Company Commander United States Marine Corps 1951-1954

Law Clerk - research & prepare legal memos J.W. Carter Assoc. Justice California Supreme Court, San Francisco, Ca., 1957-1959

Partner Legal Counsel, law firm, Johnson & Stanton, San Francisco, Ca 1959-197

Legislative & Services Counsel, Bechtel Power Corp., San Francisco, C and London, England, 1974-1985

Deputy Administrator, Enforcement, ERA, 2/85-10/85, Washington, D.C.

Acting Administrator, Direct Program, ERA, 10/85-Present, Wash., D.C.

Employment record—Continued

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Deans List, Brown University

Moot Court Award, Stanford Law School

Service Appreciation Award, California Supreme Court

Service Award to Juvenile Justice Committee, San Francisco Bar Assn.

Alumni Service Award, Brown University

Service Achievement Award, Bechtel Power Corporation

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
S. F. Bar Association	1959-Present	Comm. Chairman
American Bar Association	1959-Present	Delegate
California Bar Association	1957-Present	Delegate
American Arbit. Association	1972-1976	Arbitrator
S.F. Juvenile Justice Comm.	1972	Chairman
Trinity Parish Menlo Park, Ca.	1971	Sr. Warden
Campaign Director Brown Univ.	1957-1959	N. Ca. Co-Chairman

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

"Construction Law "The Renegotiation Clause" AGC - 1972

"Liability of Engineers for Torts" Am. Society Chem. Engineers 1981

"Intl. Arbitration of Contractor's Claims",Bechtel Overseas Corp. 19

"Principles of Negotiations", Golden Gate University 1982

"The Procedures of the Common Market",.Bechtel Power Corp. 1983

"Doing Business in the Mideast", Bechtel Overseas Corp. 1977

"Multi District Litigation Practice", ABA 1973

"How to Correct Abuses of Class Actions", Calif. Bar Assoc. 1971

"Software Property Rights", Bechtel Power Corp. 1982

"Legal Counsel Responsibilities to Financial Fiduciaries", Bechtel Trust & Thrift Fund, 1979

"Conflict of Interest Problems of Trust Fund Supervisors, Financial Management, 1982

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Not applicable

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

The benefits of the Bechtel Retired Employees Plan provide major medical doctors, nurses, medicines, and hospital benefits in the event of such illnesses from $2,000 to $250,000. In the event of death the policy will pay my beneficiaries $50,000.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No, with regard to actions against me personally. In my position as Acting Administrator, I am a party to four court actions.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

Yes. A settlement was negotiated in which a partial payment was made of the original IRS claim in full settlement.

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

I am a member of the Bechtel Retired Employees Plan as a result of my previous employment by Bechtel Power Company. This is exclusively a health benefit plan and not a pension plan. Bechtel pays the premium on the health policy provided under the plan.

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. **Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.**

See attached statement

6. **Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.**

I intend to comply with all applicable conflict of interest laws and regulations and to abide by opinions of the General Counsel/DOE with respect to conflict of interest questions.

Public disclosure: **Do you have any objections to this form and the attachments thereto being made public?**

No

AFFIDAVIT

I, Marshall A. Staunton, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Marshall A. Staunton
(Signature of Nominee)

Subscribed and sworn to before me this 13th day of JUNE, 1986.

Nancy M. Shahradi
Notary Public

My commission expires March 31, 1991

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE : 1985—43-095

ATTACHMENT TO STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES,
UNITED STATES SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES

Response to question #5 , page 6

The Secretary of Energy has granted me a waiver of the divestiture requirement of the Department of Energy Organization Act, for the duration of my employment with the Department, with respect to my insurance interests in the Bechtel Retired Employees Plan. I will not participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect upon Bechtel unless the Secretary of Energy and the appropriate agency ethics official agree that my financial interest in the particular matter is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from me.

Department of Energy
Washington, DC 20585

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Please be advised that, pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 202(a)(1)(A) with respect to income and honoraria is current as of Friday, July 11, 1986. This date is within five days prior to the date of the first hearing to consider my nomination.

Sincerely yours,

Marshall A. Staunton

Marshall A. Staunton

DISTRICT OF COLUMBIA ss

Subscribed and sworn to before me this 11th day of July, 1986.

Notary Public
My Commission Expires November 14, 1989

cc: The Honorable J. Bennett Johnston

Department of Energy
Washington, DC 20585

MAR 27 1986

David H. Martin, Director
Office of Government Ethics
1717 H Street, N.W.
Washington, D.C. 20415

Dear Mr. Martin:

This letter transmits to you, in accordance with 5 C.F.R. §734.604(c)(2)(iii), a copy of the Standard Form 278, "Financial Disclosure Report," submitted by Marshall A. Staunton incident to his nomination to the position of Administrator, Economic Regulatory Administrator. A position description is attached to the form.

Section 602(a) of the Department of Energy Organization Act (Pub. L. 95-91) prohibits Mr. Staunton from having any official relationship with or financial interest in any energy concern. In Schedule D of his Standard Form 278, Mr. Staunton reported that he is a member of the Bechtel Retired Employees Plan, and that Bechtel pays the premiums on health and life insurance coverages provided to him under the plan. Since Bechtel is an energy concern, this interest is subject to the prohibitions of section 602(a). Therefore, Mr. Staunton requested a waiver of the requirements of section 602(a) for this interest. 1/ The Secretary of Energy granted the waiver on March 26, 1986.

1/ Mr. Staunton did not list his insurance coverages under the Bechtel Retired Employees Plan in the Financial Disclosure Report (SF 278) submitted by him when he first joined the Department because he did not know that such interests were subject to the reporting requirements imposed by the Department of Energy Organization Act and the Ethics in Government Act (Pub. L. 95-521, as amended). The interests came to light in a review of Mr. Staunton's financial interests in connection with his proposed nomination for the position of Administrator of the

(Footnote Continued)

Your office has requested that this letter contain further information regarding the consulting fee from James Hill & Company reported by Mr. Staunton on his SF 278. Mr. Staunton has informed us that James Hill & Company is a retail outlet for office furniture, and that he assisted the company by providing advice in a matter relating to one of its suppliers. This activity, as well as the appearance for which he received an honorarium from Lee Arges & Associates, was conducted outside of official duty hours.

Mr. Staunton will be given advice to assure his compliance with the prohibitions of section 208, title 18, United States code, concerning his remaining financial interests.

This letter is intended to be annexed to the "comments" section of Mr. Staunton's Standard Form 278. In reaching the conclusions upon which my certification on the form is based, I encountered no problems additional to those the resolution of which is noted on the form.

Sincerely,

Ralph D. Goldenberg

Ralph D. Goldenberg
Assistant General Counsel
for General Law

Enclosures

1. Mr. Staunton's SF 278
2. Position Description

(Footnote Continued)
Economic Regulatory Administration. It is our view that no action is required with respect to the earlier failure to report the interests because only knowing or willful failure to disclose information is subject to sanctions under the statutes. (For the same reason, no action is required with respect to his failure to divest pursuant to section 602(a) of the Department of Energy Organization Act.)

United States of America
Office of Government Ethics

Office of Personnel Management
P.O. Box 14108
Washington, D.C. 20044

APR 8 1986

Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Marshall A. Staunton, who has been nominated by President Reagan for the position of Administrator, Economic Regulatory Administration, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Enclosed for your information is a copy of the letter from the Department of Energy discussing the ethics issues appearing on the report including Mr. Staunton's continuing participation in the Bechtel retired employee health and life insurance plans. As the letter indicates, because Bechtel is an "energy concern," the Secretary was required to issue Mr. Staunton a waiver under section 602(c) of the DOE Organization Act in order for him to continue participating in the plans. On March 26, 1986 the Secretary granted such a waiver.

Based on this action and the other representations made by the Department of Energy in their letter to this Office, we believe that Mr. Staunton is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosures

Financial Disclosure Report

Page 1

Reporting Status (Check Appropriate Box)		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee, or Candidate ☐ Termination Filer				

Reporting Individual's Name	Last Name: Staunton	First Name and Middle Initial: Marshall A.
Position for Which Filing	Title of Position: Administrator, Economic Regulatory Administration	Department or Agency (If Applicable): Department of Energy
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 1000 Independence Avenue, S.W. Forrestal Building Washington, D.C. 20585	Telephone No. (Include Area Code): 202-252-2929
Positions Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: Deputy Administrator, ERA February 1985 - Present Acting Administrator, ERA September 1985 - Present	
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: Energy and Natural Resources Committee, United States Senate	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Marshall A. Staunton	3-20-86
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official Reviewing Official	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations.	[signature]	3/20/86
Office of Government Ethics Use Only	Signature	Date (Month, Day, Year)
	[signature]	4-7-86

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for Income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Mr. Staunton's interest in the Bechtel Retired Employees Plan is subject to the divestiture requirements of Section 602(a) of the DOE Organization Act. He has requested a Secretarial waiver of such requirements under Section 602(c) of the Act.

SF 3-20-86

(Check box if comments are continued on the reverse side) ☐

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SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0001

Reporting Individual's Name	Assets and Income	Page Number	2	Schedule A
Staunton, Marshall A.				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets							BLOCK C Income																		BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)											If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC	Examples	None (or less than $1001)	$1,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
	X Y Z Common		X					X									X								X	
	Doe Jones & Smith, Hometown, USA																										
1	Residential Property Incline Village, Nevada						X		X					ptnrshp income									$90,000			X
2	Residential Property Scottsdale, Arizona						X		X										X								X
3	Bechtel Trust & Thrift Funds						X		X										X								X
4	James Hill & Company San Francisco, California													Cash out of entire interest									$95,999.39		X	
5	Lee Aiges & Associates New York City, New York													Consulting Fee									$ 4,000.00			
6	Bechtel Power Company													Honorarium									$ 3,000.00 *	6/8/85		
7	Bechtel Power Company													Wages									$22,383.76			
8														Bonus (Received 1/86)									$ 1,725.00 **			
9																										
10																										

* Of this $3000 amount, $500 was reimbursement for expenses, and $500 has been donated to a charitable organization.

** The receipt of this bonus was unexpected. On advice of Department of Energy Counsel, the total amount was returned to Bechtel on 3/17/86.

PREVIOUS EDITION USABLE

279-288

SF 278 (Rev. 1/83)
Title Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name

Staunton, Marshall A.

Page Number	3	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC	Example: X Y Z Common	Identification of Assets	Type of Transaction (X) Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X) $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example:	X Y Z Common	X			2/1/83			X			
1		Bechtel Trust & Thrift Funds	Cash-out			2/85				X		
2												
3												
4												
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S	Source (Name and Address)	Brief Description	Value
	Example: Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 8/15/83	$500
	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1	Bechtel Civil & Minerals, Inc. San Francisco, California	Trip to Egypt for Bechtel in mid-1984; Trips to Houston, Texas, for Bechtel 6-12/84 - Reimbursement received 2/85	$1765.43
2			
3	Lee Aiges & Associates New York City, New York	Travel Expenses Reimbursement incident to appearance at seminar.	$ 500.00
4			
5			
6			

PREVIOUS EDITION USABLE

278-1(3)

SF 278 (Rev. 1-85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name

Staunton, Marshall A.

Page Number	4	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts:

NONE ☐

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)				
						$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	Example: First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs.			X		
	Example: John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1	Wells Fargo Bank, San Francisco, California	Promissory Note, Line of Credit	1982	10%	On Demand	X				
2	Nevada National Bank, Reno, Nevada	Line of Credit	1983	10%	On Demand		X			
3	Rigge National Bank, Washington, D.C.	Promissory Note	1985	10%	One Year	X				
4	First Western Savings, Reno, Nevada	Real Estate Mortgage	1971	8%	25 Years		X			
5										
6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/78 partnership agmnt.
	Member Bechtel Retired Employees Plan - Administered by Metropolitan	Bechtel, Metropolitan Insurance Company	1/85 (On Retirement from Bechtel)
	Life Insurance Company - Plan consists of Medical and Life Insurance		
	All premiums are paid by Bechtel		

PREVIOUS EDITION USABLE

278-1/85

SF 278 (Rev. 10/83)
EGM Chapter 735
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0060

Page Number	5	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/78	11/83
Lee Aiges & Associates, New York City, New York	Arrangement of Meetings & Speakers for Businesses	One-Day Seminar Participant	6/85	-
James Hill & Company, San Francisco, California	Furniture Business	Consultant	1/85	7/85
Bechtel Power Company, San Francisco, California	Engineering & Const. Comp.	Legislative & Services Counsel	1974	1/85
Golden Gate University, San Francisco, California	University	Instructor	1982	1984

Part II
Compensation In Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
Bechtel Power Company, San Francisco, California	Legal Services
Golden Gate University, San Francisco, California	Teaching

PREVIOUS EDITION USABLE

278-108

Executive Level Position Statement

Position Title: Administrator, Economic Regulatory Administration

Grade: EL-IV - Presidential Appointee

The Administrator for the Economic Regulatory Administration (RG) is the principal advisor to the Secretary on the management and direction of economic regulartory programs other than those which are the responsibility of the Federal Energy Regulatory Commission (RC) or other components of the Department. The Administrator is responsibile for enforcement of pricing and allocation regulations in effect prior to the decontrol of crude oil and petroleum products on January 28, 1981; the conversion of oil and gas fired utility and industrial facilities to coal or other alternative fuels; natural gas import/export controls; natural gas curtailment priorities and emergency allocation; and an intervention program on behalf of the Secretary before the RC and other Federal and State regulatory agencies in support of Departmental policy objectives.

Manages and directs the enforcement of laws and regulations, audits of prices charged by oil companies, and the investigation of possible criminal and civil violations.

Administers programs under the Powerplant and Industrial Fuel Use Act to encourage the use of coal and other alternate fuels by utilities and major industrial installations.

Controls natural gas imports and exports; establishes, reviews, and revises natural gas curtailment priorities.

Administers the Oil Imports Program.

Administers and provides for the orderly close-out of the petroleum operations programs.

Manages interventions on behlaf of the Department in proceedings before State and Federal regulatory agencies in pursuit of national energy objectives.

DR. A. DAVID ROSSIN

Dr. A. David Rossin is the Director of the Nuclear Safety Analysis Center, Nuclear Power Division, at the Electric Power Research Institute (EPRI) in Palo Alto, California.

Prior to joining the Institute in 1981, Dr. Rossin served as Director of Research for the Commonwealth Edison Company, Chicago, Illinois. He is a 27-year veteran of the nuclear power field, having worked in various technical and management capacities at Argonne National Laboratory from 1955 to 1972, before moving to Commonwealth Edison. The scope of these activities has included reactor engineering, reactor safety, radiation shielding, radiation effects on materials, and environmental impact evaluations.

Dr. Rossin received a B.S. degree in Engineering Physics from Cornell University in 1954, and an M.S. degree in Nuclear Engineering from MIT in 1955, and an MBA degree from Northwestern University in 1963. He was awarded a Ph.D. in Metallurgy from Case-Western Reserve University in 1966.

Dr. Rossin is a Charter Member of the American Nuclear Society. He has been active in the utility advisory structure governing R&D programs at EPRI. Prior to appointment to his present position in 1980, Dr. Rossin was Chairman of the Nuclear Power Division's Systems and Materials Utility Task Force. He was also Chairman of the Boiling Water Reactor Owners' Group Pipe Remedies Technical Advisory Committee.

In 1982 Dr. Rossin received the Electric Light and Power "Industry Man of the Year" award in recognition for his many public statements on nuclear power safety and on energy issues.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: ROSSIN (LAST) ALBERT (FIRST) DAVID (MIDDLE)

Position to which nominated: Assistant Secretary of Energy-Nuclear Date of nomination: 5-7-86

Date of birth: 5 (DAY) 5 (MONTH) 31 (YEAR) Place of birth: Cleveland, Ohio

Marital status: Married Full name of spouse: Sandra Lee Howells Rossin

Name and ages of children: Laura Ann - 18
Elizabeth Lynn - 16

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Case Inst. of Technology (Now Case Western Reserve)	1963-66	Ph.D.	6-1966
Northwestern University	1955-63	M.Bus.Adm.	6-1963
Mass. Inst. of Tech.	1954-55	M.S. Nuc.Engr.	6-1955
Cornell University	1949-54	B. Eng.Physics	6-1954
Cleveland Heights H.S.	1946-49		6-1949

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

1- Argonne Nat'l Lab, Argonne, IL, Asst Assoc. & Senior Engineer
conducted research on nuclear power and environmental effects
7/55 - 9/67

2- Adlai Stevenson Inst. of Int'l Affairs, Chicago, IL
Research Fellow, 9/67-12/68

3- Argonne Nat'l Lab, Research Mgt, 12/69-10/71

4- Commonwealth Edison, Chicago, Dir. of Research 10/71-10/81

5- Electric Power Research Inst., Palo Alto, CA
Dir. Nuclear Safety Analysis Center, 10/81 - Date

Employment record—Continued

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Fellow, American Nuclear Society - 1979

(Electric Utility) Industry Man-of-the-Year/Electric Light and Power Magazine - 1982

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
American Nuclear Society	1954-Date	Bd of Directors Exec. Comm. Ch, Finance Comm. Pres.Chicago Sec.
Zeta Beta Tau Fraternity	1949-54	Pres. (chapter)

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

See attached List - A

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

Yes

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

I have been advised by the Office of General Counsel, DOE, that I am subject to a one-year bar on participating in certain proceedings involving Electric Power Research Institute (EPRI), my current employer, and Commonwealth Edison Co., a former employer.

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

None

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts. The Secretary of Energy has granted me a waiver of this prohibition with respect to EPRI. In addition, I have sold Carolina Power and Light Co. and Southern Co. stock belonging to my children to avoid any suggestion of conflict of interest even though I was advised that such interests are not subject to the divestiture requirements of the DOE Organization Act.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

I intend to comply with all applicable conflict of interest laws and regulations and to abide by opinions of the Office of General Counsel-DOE with respect to conflict of interest questions.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

District of Columbia

I, Albert David Rossin, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Albert David Rossin
(Signature of Nominee)

Subscribed and sworn to before me this 12th Day of June, 19 86

Cheryl D. Arrington
Notary Public

My Commission Expires November 14, 1989

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1985—43-085

ATTACHMENT: A

PUBLICATIONS - A. D. ROSSIN

A. D. Rossin, "Reliability and Economics of Light Water Reactors, "ANS Public Information Committee White Paper, May 1976.

A. D. Rossin, "Let's Set the Record Straight, "ANS-CNS, June 1976

A. D. Rossin et al, "A Critique of the Report - Power Plant Priorities, "Jan. 1977.

A. D. Rossin, "Nuclear Power: An Necessary Option, "J. of Current Social Issues, Oct. 1977

A. D. Rossin, "A Utility View of Reactor Safety, "Nuclear News, Dec. 1977.

A. D. Rossin, "Solar and Nuclear Power are Partners, "1978.

A. D. Rossin, "What Others Think: Nuclear Critics and Nuclear Economics, "Public Utilities Fortnightly, March 1978.

A. D. Rossin, "Summary Notes, "ANS Exec. Conf., April 1978.

A. D. Rossin, "Nuclear Waste Management, " June 1978.

A. D. Rossin, "Nuclear Power: The Realities," "Journal of Social Thought" Aug. 1978.

A. D. Rossin and T. A. Tieck, "Economics of Nuclear Power," Science, Aug. 1978.

A. D. Rossin and L. B. Bean, "The Impact of Safeguards on Utility Planning and Decision-Making," ANS Topical Meeting, Oct. 1978.

A. D. Rossin, "The Irony of Nuclear Waste Disposal," Conv. of Natl Assn. of Regulatory Utility Commis., Nov. 1978.

A. D. Rossin, "The Commoner Strategy: A Transition to Nowhere," "Reddy Kilowatt", Nov. 1978.

A. D. Rossin, "Should Engineering Students be Educated to Face Social Issues? "Amer. Power conf., April 1979.

A. D. Rossin, "The Impact," Nuclear Legislative Advisory Service, Apr. 1979.

A. D. Rossin, "Decentralization, Centralization and Polarization," Electric Perspectives, May 1979.

A. D. Rossin, "The Advocates, a PBS/WGBH Production," May 1979.

A. C. Rossin, Radioactive Waste Management, " McGraw-Hill Yearbook on Science and Technology, May 1979.

A. D. Rossin, "Nuclear Signpost, " Nuclear Engineering International, June 1979.

A. D. Rossin, "Long-term Geologic Storage of Spent Fuel: Feasibility, Necessity and Common Sense," Amer. Soc. of Civil Engineers Conv., Oct. 1979.

A. D. Rossin, "A Bridge to Nowhere," Reddy News, Nov/Dec. 1979.

A. D. Rossin, "Energy Economics - Coal and Nuclear Power, "The Environmental Forum, Feb. 1980.

A. D. Rossin, "Comments on Cost Escalation at Nuclear and Coal Power Plants, (by Charles Komanoff), April 1980.

R. E. Smith, J. C. Danko and A. D. Rossin, "BWR Intergranulate Stress Corrosion Cracking Research Program Overview, "Proc. of Amer. Power Conf., Vol. 42, 1980.

A. D. Rossin, "Reflections on the 'National Nuclear Debate'", Nuclear Engineering International, April 1980.

A. D. Rossin, "Nuclear Skepticism Should be More Evenhanded," Harrisburg, PA Evening News, April 1980.

A. D. Rossin, "The Soft Energy Path, Where Does it Really Lead?" The Futurist, Vo. XIV, No. 3, June 1980.

A. D. Rossin, "Energy Shortages: The Downside Risks, "Public Utilities Fortnightly, July 1980.

A. D. Rossin, "Long-term Geologic Storage of Spent Fuel, "Journal of the Structural Division, ADCE, July 1980.

A. D. Rossin, (Book Assuring Structural Integrity of Steel Reactor Pressure Vessels, "Licensed Nuclear Plants, Uncertainties and Research Priorities," July 1980.

A. D. Rossin, "One Necessary Energy Source," Journal of Current Social Issues, Winter 1980.

A. D. Rossin, et al, "An Overview of Boiling Watger Reactor Pipe Cracking, " Pressure Vessels and Piping, Oct. 1980.

A. D. Rossin, "Nuclear Power and the Professional," Illinois Society of Professional Engrs., Feb. 1981.

A. D. Rossin, "Nuclear Waste Issues," Nuclear Engineering International, March 1981.

64-010 O - 86 - 4

A. D. Rossin, "Nuclear Power: New Economics and Realities," approx. March 1981.

A. D. Rossin, "Letter to the Editor: A Question of Credibility," Nuclear Safety, Vol 22, No. 5, Sept/Oct. 1981.

A. D. Rossin, "Proving Pressure Vessel Safety," Nuclear Engineering International, Nov. 1981.

A. D. Rossin, "Emergency Planning and Other Risks," Workshop on Impacts from Reactor Releases, Jan. 1982.

A. D. Rossin, "Risks and Other Risks," Workshop on Vital DC Power, March 30-31, 1982.

A. D. Rossin, "Risks and Perceptions of Risks," ANS Executive Conference on PRA, April 1982.

A. D. Rossin, "A-Plant Safety," Wall Street Journal Op-Ed Article, 3/29/82.

E. L. Zebroski, A. D. Rossin, "Improving Plant Operation and Safety Making Use of International Operating Experience on over 100 Power Reactors," ANS Conf. Brussels, April 1982.

A. D. Rossin, "The Risks of Faulty Communication," Nuclear Energy Women's Conf. April 1982.

W. B. Loewenstein, A. D. Rossin, K. E. Stahlkopf, "The EPRI Program on PWR Thermal Shock," ANS Meeting, June 6-12, 1982.

A. D. Rossin, "Nuclear Freezes and Nuclear War," ANS Meeting, June 6-12, 1982.

kA. D. Rossin, "Nuclear Safety," The Christian Science Monitor Opinion and Commentary, June 7, 1982.

A. D. Rossin, Opinion/Analysis/Commentary, "Forum" section of Cleveland Plain Dealer, 7/23/82. "Battle for Energy is Nuclear Threat."

A. D. Rossin, "The Real Causes of Nuclear War" - Op-ed section of San Francisco Chronicle, 10/2/82.

A. D. Rossin, "The Soft Energy Path: Where Does It really Lead?" Perspectives on Energy, Oxford Univ. Press, 1982.

A. D. Rossin and R. Catlin, "Implication of Compensation Schemes in Proposed Legislation," Atomic Industrial Forum, Nuclear Insurance Issues Conference, 2/13-16/83.

A. D. Rossin, "Energy Shortages: The Downside Risks, (A-6) and "The Solar-Nuclear Competition Myth," for Purdue University.

A. D. Rossin, "Effect of Science and Politics on Nuclear Power," speech at Commonwealth Club of California, July 11, 1983.

A. D. Rossin, "Facts, Perception of Facts, and the Credibility of the Process,"International Nuclear Law Assoc. Meeting, 9/11-15/83, San Francisco.

A. D. Rossin and Gary L. Vine, "The Economic Impact of Reactor Transients," ANS Meeting on Transients inh LWRS, Jackson Hole, WY, September 26-29, 1983.

A. D. Rossin, "Nuclear Power: Where it Stands, the Future, and What That May Mean," Ohio Elec. Utility Institure News Media Seminar, Columbus, Ohio, 10/13/83.

A. D. Rossin, "Technological Hazard," Letter to Editor, Science mag., Vol 221, Sept.,1983.

A. D. Rossin, "Piant Safety and Operations," PP. 63-82, Aerospace Technology and Commercial Nuclear Power (book in bookcase), Amer. Inst. of Aeron and Astron. 1982.

A. D. Rossin, untitled article, pp. 129-134, Aerospace Technology and Commercial Nuclear Power (book in bookcase), Amer. Inst. of Aeron, and Astron. 1982.

A. D. Rossin, "Operating Exeroemc[illegible] Droves Mic;ear Safetu Researcj. "IEEE 1984, Orlando, FL, 10/31/11/2/84.

A. D. Rossin, Draft, "Energy Shortages; The Downside Risks," Plenum Publishing, 10/84.

A. D. Rossin, "Nuclear Power Plant Operations and Costs--A short Course," INPO Meeting November 1984.

A. D. Rossin, "Radiation and Credibility, and Industry View," ANS Exec. Conference, San Diego, December 9-12, 1984.

Department of Energy
Washington, DC 20585

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Please be advised that, pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that, since April 1, 1986, I have received salary payments of $26,395.86 from the Electric Power Research Institute. This is in addition to the payments reported in Schedule A of my Standard Form 278 dated April 1, 1986. With this addition, my Standard Form 278 is current as of July 11, 1986. This date is within five days prior to the date of the first hearing scheduled to consider my nomination.

Sincerely yours,

Albert David Rossin

Albert David Rossin

DISTRICT OF COLUMBIA ss

Subscribed and sworn to before me this 11th day of July, 1986.

Notary Public
My Commission Expires November 14, 1989

cc: The Honorable J. Bennett Johnston

DOE F 1325.8
(8-89)

United States Government — Department of Energy

memorandum

DATE: MAY 08 1986

REPLY TO ATTN OF: GC-44

SUBJECT: Statement of Agency Ethics Official for Senate Committee

TO: A. David Rossin

This memorandum is intended to serve as a statement from the designated agency ethics official for this Department, as required by question 5, page 6, of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources in connection with your nomination for the position of Assistant Secretary for Nuclear Energy. I have reviewed your Standard Form 278 (Financial Disclosure Report) dated April 1, 1986, and your Form DOE-460 (Report on Prior Employment) dated April 11, 1986, and have certified that the information contained therein discloses no conflict of interest under applicable laws and regulations. 1/

As a supervisory employee of the Department, you are prohibited by section 602(a) of the DOE Organization Act (Pub. L. 95-91) from knowingly receiving compensation from, holding any official relation with, or having any pecuniary interest in any energy concern. The term "energy concern" is defined in section 601(b) of the Act as any entity "significantly engaged in the business" of any of a variety of activities related to energy production, distribution, sale, or research and development, or any entity significantly engaged in such research and development pursuant to a DOE-funded program irrespective of whether it otherwise engages in such business. The term also includes any entity holding an interest in property from which an energy resource is commercially produced or obtained.

In Schedule A of your Standard Form 278, you listed financial interests of a dependent child in Carolina Power and Light Company and in Southern Company, both of which are energy concerns that are currently operating or constructing nuclear power plants, either directly or through a subsidiary. While interests of dependent children are not subject to the

---

1/ Section 201(b) of the Ethics in Government Act (Pub. L. 95-521) requires the income and honoraria information on your form to be updated within five days before the date of the Committee hearing to consider your nomination.

prohibitions of section 602(a), 2/ to avoid any suggestion of conflict of interest, you have undertaken to divest these interests.

Section 606(a) of the Department of Energy Organization Act prohibits a supervisory employee of the Department, for a period of one year after terminating employment with any energy concern, from knowingly participating in any Department proceeding involving that energy concern (other than a general rulemaking). Section 606(b) of the Act prohibits a supervisory employee, for a period of one year after commencing service in the Department, from knowingly participating in any Department proceeding for which he had direct responsibility, or in which he participated substantially or personally, while employed by any energy concern within the previous five years. The term "Department proceeding" is defined in section 1010.103(h) of title 10, Code of Federal Regulations, as "any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest, in which the Department is directly involved.

You reported in Schedule D of your Standard Form 278 that you are currently employed by the Electric Power Research Institute (EPRI), which has been determined to be an energy concern within the meaning of section 601(b) of the Department of Energy Organization Act. The Department has an agreement with EPRI to coordinate research and development in the nuclear energy field, and Department activities in relation to this agreement are focussed largely in the Office of the Assistant Secretary for Nuclear Energy. Accordingly, you requested a waiver of the participation prohibitions of section 606 with respect to proceedings relating to the Department's nuclear energy program that involve EPRI. The Secretary granted the waiver on April 17, 1986. 3/

2/ Such interests are subject to the participation prohibitions of 18 U.S.C. 208(a), discussed later in this memorandum.

3/ You have undertaken to sever all relationships with EPRI before assuming the position of Assistant Secretary for Nuclear Energy. You have also informed us that you have terminated negotiations with EPRI regarding a severance payment, and have undertaken not to accept any such payment from them. Therefore, no conflict of interest provision other than section 606 has to be addressed with respect to your relationship with the Institute.

You have also reported in Part A of your Form DOE-460 that, before joining EPRI in October 1981, you were employed by the Commonwealth Edison Company, which is an energy concern. While we are not aware of any Department proceeding from which section 606(b) would require your recusal because of this past employment, you should be aware of the provisions of section 606(b) as they might relate to the services you performed for that organization.

Finally, section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, you have or your spouse, minor child, partner, organization in which you are serving as officer, director, trustee, partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment has, a financial interest. Accordingly, you should avoid participation in any particular matter the outcome of which could have a direct and predictable effect on any such financial interests.

Please let me know if I can be of further assistance.

Ralph D. Goldenberg
Assistant General Counsel
for General Law

United States
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

SENATE COMMITTEE JUN 12 1986
ENERGY AND NATURAL RESOURCES
RECEIVED
JUN 12 1986
WASHINGTON, D.C. 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Albert D. Rossin, who has been nominated by President Reagan for the position of Assistant Secretary for Nuclear Energy, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Rossin is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

Financial Disclosure Report

Form Approved OMB No. 3209-0001

Reporting Status (Check Appropriate Box)		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee or Candidate ☐ Termination Filer		MAY - 9 1986		
Reporting Individual's Name	Last Name: ROSSIN	First Name and Middle Initial: ALBERT D (AVID)			
Position for Which Filing	Title of Position: ASST. SECRETARY - NUCLEAR ENERGY	Department or Agency (If Applicable): DEPT. OF ENERGY			
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 3412 HILLVIEW AVE. PALO ALTO, CA, 94303		Telephone No. (Include Area Code): (415) 855-2061		
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: N/A				
Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: SENATE ENERGY & ENVIRONMENT	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No			

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Albert David Rossin	4-1-86
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official: Jacques B. Gelin	Date (Month, Day, Year): 5/8/86
Office of Government Ethics Use Only	Signature: David H. Martinez	Date (Month, Day, Year): 6/12/86

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Term "Market" "Thru" was added pursuant to telephone conversation of 4/1/86 with Albert Rossin. Text follows:

To avoid any suggestion of conflict of interest, Mr. Rossin has agreed to divest stock of DC in Carolina Power & Light and Southwest before he assumes office. He was provided with advice regarding application of § 1001 of the DOE Organization Act to his former employment by the Electric Power Research Institute and the Commonwealth Edison Company. The Secretary of Energy granted him a waiver with respect to the [illegible] Company on April 17, 1986 [illegible] 5-8-86

(Check box if comments are continued on the reverse side) ☐

278 Change 134
U.S. Office of Personnel Management

OMB No. 3206-0006

Reporting Individual's Name: ALBERT DAVID ROSSIN

Assets and Income

Page Number 2 | Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets	BLOCK C Income																								BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)	Type of Income (X)							Other (Specify Type)	Category of Amount of Income (X)										Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
	None (or less than $1001)	$1,001 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000			YES	NO
S or DC: Examples: X Y Z Common				X				X									X								X	
Doe Jones & Smith, Hometown, USA			X																								
														partnership income									$50,000			
1 Electric Power Research Inst.	X													Salary							X		90,994			
2 Univ. of Massachusetts	X													Honorarium		X							250	10-15-85		
3 Commonwealth Edison - Common	Sold							X									X									
4 Millipore - Common			X					X							X											
5 Kidder Peabody Webster Fund	X									X						X										
6 Templeton, Fund (IRA)		X						X		X						X										
7 Crocker Bank (IRA) OD			X							X						X										
8 Gentech Associates (Partner) 4 Cedar Swamp Rd. Glen Cove, NY				X				X							X											
9 BCK Partners, Marine Midland Plaza, Binghamton, NY				X				X							X											
10 Brunswick - Common		X						X							X											

PREVIOUS EDITION USABLE

* STOCK SOLD IN 2 LOTS - LOT #1 SOLD AT A LOSS IN 1985. LOT #2 (DIVIDEND REINVESTMENT SHARES AT ZERO BASIS) SOLD AT GAIN IN 1985

Reporting Individual's Name: ALBERT DAVID ROSSIN

Assets and Income

Page Number: 3 | Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources			BLOCK B Valuation of Assets								BLOCK C Income																BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐			Category of Value (X)								Type of Income (X)							Category of Amount of Income (X)										If yes, complete Schd. B Part I for those assets including those sold for a loss.	
			None (or less than $1001)	$1,001 $15,000	$15,001 $50,000	$50,001 $100,000	$100,001 $250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 $1,000	$1,001 $2,500	$2,501 $5,000	$5,001 $15,000	$15,001 $50,000	$50,001 $100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
S or DC	Exempt	XYZ Common Doe Jones & Smith, Hometown, USA			X				X									X								X	
11		Fairview Farm Partners (limited partnership) [illegible] P. Kelcher, Naperville, IL, 60540		X						X					partnership income		X							$50,000			
a		Fluid Air - Common Naperville, IL			X				X								X											
b		Restaurant 101 101 California St. San Fran. CA			X				X								X											
c		Marinet Properties - 2 Wk Int. (condo - fully) 1010 Plantation, Captiva, FL			X										None		X											
d		Vacation Int'l - 1 Wk. Interval (condo - fully) PO 1970 Seattle, WA			X										None		X											
e	S	Crocker Bank (IRA) CD (fully)		X								X						X										
f	S	Baxter Travenol - Common			X				X									X										
g	S	International Multifoods - Com		X					X									X										
h	S	Premier Ind. - Common			X				X									X										
i	DC	Carolina P & L - Common			X				X									X										

PREVIOUS EDITION

Reporting Individual's Name: ALBERT DAVID ROSSIN

Assets and Income

Page Number: 4 | Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and commodities holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

	BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets								BLOCK C Income															BLOCK D Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)								Type of Income (X)							Category of Amount of Income (X)									If yes, complete Schd. B Part I for these assets including those sold for a loss.	
		None (or less than $1001)	$1,001 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000		Dividends	Rent	Interest	Capital Gains	Exempted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
SO DC	Exam-ples: X Y Z Common; Doe Jones & Smith, Homestown, USA			X						X								X									X	
21 DC	Artra Group - Common		X							X						partship income									$50,000			
22 DC	Becton Dickinson - Common			X						X							X											
23 DC	Continental Tel. - Common			X						X								X										
24 DC	Lotus Dev. Co. - Common		X							X									X									
25 DC	Rymer - Common		X							X							X											
26 DC	Saga - Common				X					X							X											
27 DC	Southern Co. - Common		X							X								X										
28 DC	Daisy Systems - Common		X							X								X										
29 DC	Laser Int'l - Common		X							X							X											
30 DC	NCR - Common				X					X								X										

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370-209

SF 278 (Rev. 1/92)
FPM Chapter 735
U.S. Office of Personnel Management

Reporting Individual's Name: ALBERT DAVID ROSSIN

Assets and Income

Page Number: 5 — Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

	BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets	BLOCK C Income																										BLOCK D Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). 'NONE ☐	Category of Value (X)								Type of Income (X)							Category of Amount of Income (X)									Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
		None (or less than $1001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Exempted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000			YES	NO
S DC	Exam ples: X Y Z Common — Doe Jones & Smith, Hometown, USA		X		X			X									X									X	
1			X											partnership income									$90,000			
DC 2	Xidex - Common		X					X							X												
3	Xerox - Common		X					X								X											
4	Fishburn Mortgage Co. Tampa, FL (Private Mtg. Trust A)			X											X (exempt)												
5	Crocker Money Market		X							X						X (int.)											
6																											
7																											
8																											
9																											
10																											

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SF 278 (Rev. 1/85)
For Chapter 7Ga
U.S. Office of Personnel Management

Reporting Individual's Name
ALBERT DAVID ROSSIN

Page Number 6 | Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)				
						$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	20 yrs			X		
Exam-ples	John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1	CROCKER NATIONAL BANK, PALO ALTO, CA 301 UNIVERSITY AVE.	Primeline Equity loan	1984	12%	Demand		X			
2										
3										
4										
5										
6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	3/78 pinership agmnt
	Severance agreement currently under negotiation. Atty Mr. Rossin has discussed terms with EPDT		
	Atty Widing re [illegible] payment, and his understanding not to accept any such payment		
	from them. [illegible]		

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SF 278 (Rev. 1/95)
OPM Chapter 734
U.S. Office of Personnel Management

Reporting Individual's Name
ALBERT DAVID ROSSIN

OMB No. 3209-7500

Page Number	7	Schedule D, F

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
ELECTRIC POWER RESEARCH INSTITUTE 3412 HILLVIEW AVE. PALO ALTO, CA. 94303	Non-profit Research Mgt.	Director, Nuclear Safety Analysis Center	10/81	Date
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Part II
Compensation in Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
ELECTRIC POWER RESEARCH INSTITUTE 3412 HILLVIEW AVE. PALO ALTO, CA. 94303	Management; Department Director

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278-100

Executive Level Position Statement

Position Title: Assistant Secretary for Nuclear Energy

Grade: EL-IV - Presidential Appointee

The Assistant Secretary for Nuclear Energy is responsible for the technical management, administration and program direction of all assigned programs. These include uranium resource assessment, uranium enrichment, research and development activities in the areas of nuclear reactor technology including converter and breeder reactors and their associated fuel cycles, advanced enrichment techniques, naval reactors, and nuclear waste management including both long-term and interim storage.

The incumbent is responsible for routinely testifying at Congressional hearings on Presidential budget requests and for defending the associated programmatic direction before the authorization, appropriations and oversight committees of both houses of the United States Congress.

The incumbent is responsible for articulating and defending DOE proposed programs to the Executive Office of the President and the Office of Management and Budget as part of the President's budget development and planning process.

The incumbent undertakes special assignments for the Secretary of Energy and represents him in meetings within and outside the Department and makes commitments on policy matters affecting Nuclear Energy.

The Assistant Secretary for Nuclear Energy reports to the Secretary of Energy. Work is reviewed in terms of the effectiveness of the functions directed and their contributions to overall Department of Energy accomplishment.

U.S. Department of Energy
Assistant Secretary for
Congressional, Intergovernmental
and Public Affairs
Office of Public Liaison
Washington, D.C. 20585
202/252-4292

BIOGRAPHY

THEODORE J. GARRISH

Theodore J. Garrish assumed the position of Assistant Secretary for Congressional, Intergovernmental and Public Affairs, U.S. Department of Energy (DOE), on May 17, 1985.

In this position he is responsible for coordinating the Department's legislative programs and DOE's relationships with Members of Congress; activities involving State and local governments; the Office of Public Affairs; the Office of the Press Secretary; DOE's Office of Competition, and Office of Consumer Affairs.

Before accepting this assignment, Mr. Garrish had served as General Counsel since May 1983. In that position he was responsible for the Department's legal programs and policies. Mr. Garrish previously served as special assistant to the Secretary of Energy, with primary responsibility of coordinating efforts on natural gas legislation. Mr. Garrish was Legislative Counsel at the Department of the Interior (1981-1982) before coming to the DOE in November 1982.

From 1978 until joining the Interior Department, he was a partner in the Washington, D.C. law firm of Deane, Snowdon, Shutler, Garrish and Gherardi. He was General Counsel at the U.S. Consumer Product Safety Commission, 1976-1978; Assistant to the Secretary of the Interior in 1976 and 1974-1975; Assistant to the Special Counsel in the White House, 1974, and senior trial attorney and chief of the Advertising Evaluation Section at the Federal Trade Commission, 1973-1974.

He received a B.A. degree from the University of Michigan in 1964 and a J.D. degree cum laude from Wayne State University in 1968. He is a member of the bar in the State of Michigan and the District of Columbia.

A native of Lathrup Village in Oakland County, Michigan, Mr. Garrish has two children and currently resides in Alexandria, Virginia.

March 1985

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Garrish, (LAST) Theodore (FIRST) John (OTHER)

Position to which nominated: Federal Inspector for the Alaska Nat. Gas Transp. System **Date of nomination:** May 12, 1986

Date of birth: 06 (DAY) 01 (MONTH) 43 (YEAR) **Place of birth:** Detroit, Michigan

Marital status: Divorced **Full name of spouse:**

Name and ages of children

Theodore John Garrish, Jr. 17

Amelia Sutter Garrish 11

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Wayne State Univ.	1965-1968	J.D.	1968
Univ. of Michigan	1960-1964	A.B.	1964

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

Asst. Secretary for Cong., Intergov. & Public Affairs, U.S. Dept. of Energy, Wash., D.C. - May 1985 to Present

General Counsel, U.S. Dept. of Energy - Wash., D.C. - May 1983 to May 1985

Special Assistant to the Secretary, U.S. Dept. of Energy, Wash., D.C. - 1982 to May 1983

Legislative Counsel, U.S. Dept. of the Interior, Wash., D.C. - 1981-1982

Partner, Deane, Snowdon, Shutler, Garrish & Gherardi, Wash., D.C. - 1978-1981

General Counsel (Solicitor), U.S. Consumer Product Safety Commission, Wash., D.C. - 1976-1978

Assistant to the Secretary, U.S. Dept. of the Interior, Wash., D.C. - 1976

Deputy General Counsel, U.S. Office of Consumer Affairs, Wash., D.C. - 1975-1976

Attorney Advisor, U.S. Dept. of the Interior, Wash., D.C. - 1974-1975

Employment record—Continued

Staff Assistant to the President, The White House
Washington, D.C. - 1974

Senior Trial Attorney, Federal Trade Commission
Washington, D.C. - 1973-74

Public Opinion Analyst, Committee for Re-election of the President
Washington, D.C. - 1972

Supervisory Trial Attorney, U.S. Department of Justice
Washington, D.C. - 1969-72

Assistant Manager, Consumer Research, American Motors Corporation
Detroit, Michigan - 1968-69

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

None

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Law School -- Cum laude Degree

-- Moot Court Board

-- Scholarship

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
Michigan State Bar Association	1969 to Present	-
District of Columbia Bar Assoc.	1972 to Present	-
Federal Bar Association	1971 to Present	-
American Bar Association	1971 - 1981	-
National Lawyers Club	1979 - 1981	-
U.S. Ski Association (SkiPAC)	1979 - 1980	Treasurer
Peninsular Society (Alpha Delta Phi social fraternity)	1960 to Present	-
Delta Theta Phi Professional fraternity	1965 - 1969	-

Published writings:

List the titles, publishers and dates of any books, articles, or reports you have written.

During 1978-80 I submitted monthly columns entitled, "Legislative and Regulatory Report" and "Washington Report" along with news releases and short articles to newsletters and specialized publications with an interest in land use issues. Because of the myriad of publications in which such columns appeared it would be exceptionally difficult to provide a listing of where items appeared.

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

I intend to continue in my current position at the Department of Energy.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

I have no such plans.

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No.

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

Not applicable.

Future employment relationships--Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No.

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

None.

3. Are you currently a party to any legal action? If so, describe its nature and status.

No.

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No.

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes.

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit? Yes. 1975 return, approved as originally submitted. The real estate partnership of which I am a member is currently negotiating with the IRS relative to a partnership deduct (the valuation of a charitable gift) on its partnership returns for 1981 and 1982. I have been informed by the IRS that the outcome of these negotiations may affect my personal returns for these two yea

Potential conflicts of interest:

1. **List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.**

None.

2. **Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.**

None.

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

While in private practice (1978-1980) I performed legislative advocacy and representation on various national resource issues. Principal among these were the Archaeological Resource Protection Act and RARE II bills. I registered and reported this activity with the appropriate offices of the House and Senate on behalf of my law firm.

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes.

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

I will undertake not to participate as a government official in any matters in which my former law firm is involved. Further, I will not participate in any particular matter, the outcome of which could have a direct and predictable effect on either the National Outdoor Coalition or the Cellulose Manufacturers Assoc.

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

Same as #5 above.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No.

AFFIDAVIT

I, Theodore J. Garrish, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

(Signature of Nominee)

Subscribed and sworn to before me this 13th day of June 1986

Darcy M. Shahadi
Notary Public

My commission expires March 31, 1991

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE: 1985—43-095

Department of Energy
Washington, DC 20585

The Honorable James A. McClure
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by Section 202(a)(1)(A) with respect to income and honoraria reported on my Standard Form 278 dated March 11, 1986, is current as of Monday, July 14, 1986; except that the negative balance in my capital account with my former law firm (now called Deane, Snowdon, Shutler and Gherardi) may have been reduced since that time as the result of payments to the firm by a client for whom I performed services while a member of the firm. (This arrangement is fully explained in my SF 278 previously submitted to the committee. In short, income may have been attributed for federal income tax purposes but no cash has been received nor will any be received in the future.) The date of this letter is within five days prior to the date of the hearing to consider my nomination.

Sincerely yours,

Theodore J. Garrish

DISTRICT OF COLUMBIA ss

Subscribed and sworn to before me this 14th day of July, 1986.

Notary Public
My Commission Expires November 14, 1989

cc: The Honorable J. Bennett Johnston

United States Government — Department of Energy

memorandum

DATE: MAY 15 1986

REPLY TO ATTN OF: GC-44

SUBJECT: Statement of Agency Ethics Official for Senate Committee

TO: Theodore J. Garrish

This memorandum is intended to serve as a statement from the acting designated agency ethics official for the Federal Inspector for the Alaska Natural Gas Transportation System, 1/ as required by question 5, page 6, of the Statement for Completion by Presidential Nominees that you are submitting to the United States Senate Committee on Energy and Natural Resources in connection with your nomination for the position of Federal Inspector for the Alaska Natural Gas Transportation System. I have reviewed your Standard Form 278 (Financial Disclosure Report) dated March 11, 1986, and have certified that the information contained therein discloses no conflict of interest under applicable laws and regulations. 2/

Section 208, title 18, United States Code, prohibits you from participating personally and substantially, as a Government employee, in any particular matter in which, to your knowledge, you have or your spouse, minor child, partner, organization in which you are serving as officer, director, trustee, partner, or employee, or any person or organization with whom you are negotiating or have any arrangement concerning prospective employment has, a financial interest. Accordingly, you should avoid participation in any particular matter the outcome of which could have a direct and predictable effect on any such financial interests.

You indicated on Schedule A of your Standard Form 278 that fees are still owing from the Cellulose Manufacturers' Association, a

---

1/ By a Memorandum of Understanding between the Department of Energy and the Office of the Federal Inspector, effective October 11, 1985, the Department of Energy agreed to provide legal and other services to the Office of the Federal Inspector.

2/ Section 201(b) of the Ethics in Government Act (Pub. L. 95-521) requires the income and honoraria information on your form to be updated within five days before the date of the Committee hearing to consider your nomination.

former client. I understand that all evidence of indebtedness for such fees on the part of the Association became your property under your withdrawal agreement with your former law firm (now known as Deane, Snowdon, Shutler and Gherardi). On Schedule C of your Standard Form 278, you made reference to payment of unpaid bills to your former law firm being attributed to you for income tax purposes. You have informed me that, at the time you withdrew from your former law firm, fees were owed to the firm by the National Outdoor Coalition, a client for whom you performed services while a member of the firm. The firm subsequently agreed to reduce the amount owed by the organization in exchange for a note payable to the firm. The latter amount was equivalent to your negative balance in the firm's capital account. Under an agreement you made with the firm, as the National Outdoor Coalition makes payments on the note, your capital account negative balance is reduced. This is the arrangement that underlies the reference to income on Schedule C.

To avoid any suggestion of conflict of interest, you have undertaken, for the duration of your service as Federal Inspector for the Alaska Natural Gas Transportation System, not to participate, as a Government employee, in any particular matter in which the law firm is involved. Further, you have agreed not to participate, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on the Cellulose Manufacturers' Association or the National Outdoor Coalition, so long as the organization continues to be indebted to you or to your former law firm as described above.

Please let me know if I can be of further assistance.

Ralph D. Goldenberg
Assistant General Counsel
for General Law

United States of America
Office of Government Ethics

Office of Personnel Management
P.O. Box 14108
Washington, D.C. 20044

MAY 23

SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES
RECEIVED
MAY 29 1986
WASHINGTON DC 20510

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Theodore J. Garrish, who has been nominated by President Reagan for the position of Federal Inspector for the Alaska Natural Gas Transportation System, Department of Energy.

We have reviewed the report and have also obtained advice from the Department of Energy concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Enclosed for your information is a copy of the letter from the Department of Energy outlining Mr. Garrish's agreement to recuse himself in certain matters and the reasons for such an agreement.

Based thereon, we believe Mr. Garrish is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosures

Financial Disclosure Report

Form Approved OMB No. 3209-0001

Reporting Status (Check Appropriate Box)		Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☐ Incumbent	☒ New Entrant, Nominee, or Candidate ☐ Termination Filer		MAY 16 1986		

Reporting Individual's Name	Last Name: GARRISH	First Name and Middle Initial: THEODORE J.
Position for Which Filing	Title of Position: FEDERAL INSPECTOR	Department or Agency (If Applicable): ALASKA NATURAL GAS TRANSPORTATION SYSTEM
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 1000 INDEPENDENCE AVENUE, SW/ WASH, DC 20585	Telephone No. (Include Area Code): (202) 252-5450
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held: ASST SECY FOR CONG., INT'GL & PUB AFF. DOE 5/20/85 -present GENERAL COUNSEL DOE MAY 10, 1983 - MAY 20, 1985	

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination: SENATE ENERGY AND NATURAL RESOURCES	Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No

Certification: I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	Signature of Reporting Individual: Theodore J. Garrish	Date (Month, Day, Year): 3/11/86
Other Review (If desired by agency)	Signature of Other Reviewer	Date (Month, Day, Year)
Agency Ethics Official's Opinion: The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Signature of Designated Agency Ethics Official/Reviewing Official: Jacque D. Jorgensen	Date (Month, Day, Year): 5/14/86
Office of Government Ethics Use Only	Signature: David H. Martin	Date (Month, Day, Year): 5-23-86

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I (Liabilities)**—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II (Agreements and Arrangements)**—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

Mr. Garrish has undertaken, for the duration of his service as Federal Inspector, not to participate as a Government employee in any particular matter in which his former law firm is involved. Further, he has agreed not to participate as a Government employee in any particular matter the outcome of which could have a direct and predictable effect on either the Columbia Manufacturing Association or the National Outdoor Coalition, so long as the organization continues to be visited to him or by former law firm as the result of legal services performed by Mr. Garrish while a member of his former law firm. TJG 5/14/86

PREVIOUS EDITION USABLE

376-109

[Check box if comments are continued on the reverse side) ☐

NSN 7540-01-070-6000

SF 278 (Rev. 1/95)
Part Chapter 73 of
U.S. Office of Personal Management

Form Approved
OMB No. 3209-0001

Reporting Individual's Name	Assets and Income	Page Number	2	Schedule A
THEODORE J. GARRISH				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Terminated Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets	BLOCK C Income																						BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)	Type of Income (X)							Category of Amount of Income (X)													If yes, complete Sched. B Part I for these assets including those sold for a loss.	
	None (or less than $1001)	$1,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	$100,001 - $250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101 - $1,000	$1,001 - $2,500	$2,501 - $5,000	$5,001 - $15,000	$15,001 - $50,000	$50,001 - $100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
S or DC: Exempt — X Y Z Common, Dow Jones & Smith, Hometown, USA		X					X									X								X	
1 1607 ASSOCIATES (DC partnership owning commercial real estate at 1607 New Hampshire)			X					X					ptnrshp income						X			$50,000 (GROSS; NET LOSS)			
2 CELLULOSE MANUFACTURES ASSOCIATION IS A FORMER CLIENT FROM WHOM FEES ARE STILL OWING			X											X											
3																									
4			X																						
5																									
6																									
7																									
8																									
9																									
10																									

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278-209

SF 278 (Rev. 1-80)
Fifth Chapter 73A
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0007

Reporting Individual's Name
THEODORE J. GARRISA

Page Number	-3-	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE [X]

S or DC	Example	Identification of Assets	Type of Transaction (X) Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X) $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example	X Y Z Common	X			2/1/83			X			
1												
2												
3												
4												
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE [X]

S	Source (Name and Address)	Brief Description	Value
	Example: Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Example: Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1			
2			
3			
4			
5			
6			

PREVIOUS EDITION USABLE

278-1(B)

SF 278 (Rev. 1/95)
5 CFR Chapter XXIV
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0047

Reporting Individual's Name

THEODORE J. GARRISH

Page Number	4	Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

		Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	Examples:	First District Bank, Washington, DC John Jones, 123 J St., Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware Promissory note	1981 1979	13% 10%	25 yrs. on demand	X		X		
1		MIDLAND INSURANCE, CHICAGO, ILLINOIS	PROMISSORY NOTE FROM 1607 ASSOCIATES TOTAL LIABILITY OF ALL PARTNERS, $750,000; MY SHARE $107,111	1980	12%	10 yrs.				X	
2											
3		FIRST AMERICAN NATIONAL BANK, WASHINGTON, DC (line of Credit for 1607 Associates)	2 pts. ABOVE PRIME - 1 yr. revolving TOTAL LIABILITY OF ALL PARTNERS, $75,000, MY SHARE $5,355.	1980		1 yr. revolving			X		
4											
5		KEY CAPITAL CORPORATION, 57 RIVER STREET WELLESLEY HILLS, MASSACHUSETTS 02181	1/2 INTEREST IN $50,000 MORTGAGE ON SAILING VESSEL, 1 1/2 pt. ABOVE PRIME	1985		15 yrs.		X			
6											

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/75 ptnership agmnt.
	Withdrawal from former law firm (Deane, Snowdon, Shutler, Garrish and Gherardi) has been effectuated. Under my withdrawal agreement, no cash will be distributed to me in the future. However, as my former firm receives payment for unpaid bills, income will be attributed to me for income tax purposes.		

owned by the Delaware Outdoor Coalition

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278-100

SF 278 (Rev. 9/89)
Fifth Creation 738
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0007

Reporting Individual's Name
Theodore J. Garrish

Page Number	5	Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples: Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
1607 Associates; 1607 N.H. Ave, Wash, D.C.	Real Estate Partnership	Partner	1/80	present
Anniversary Ball Committee, Wash, D.C.	D. C. Nonprofit	Director	9/83	present

Part II
Compensation in Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☒

Source (Name and Address)	Brief Description of Duties
Examples: Doe Jones & Smith, Hometown, USA	Legal services
Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction

PREVIOUS EDITION USABLE

278-109

DR. RICHARD H. FRANCIS
PRESIDENT-DESIGNATE
SOLAR ENERGY AND ENERGY CONSERVATION BANK
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Since June 1982, Richard Francis has been responsible for administering the Solar Energy and Energy Conservation Bank. He establishes policies, priorities, and program concepts which facilitate implementation of the Bank according to the statute and under the direction of the Bank's Board of Directors.

Dr. Francis joined the government in 1981 to serve as Senior Policy Advisor to the Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development. He was involved in a variety of complex special assignments concerning matters of policy requiring a close, personal, and confidential relationship with the Assistant Secretary.

Prior to entering government service, Dr. Francis was Executive Vice President of the National Multi Housing Council and was directly involved in a wide range of housing issues from 1978 - 1981. He represented the council's positions on various housing policies and had extensive contact with all levels of government and the private sector. In addition, he has addressed numerous public forums, appeared on radio and television, and had many contacts with the print media on housing issues.

Earlier, as Director of Government Relations for the National Association of Independent Colleges and Universities, Associate Director for Federal Relations of the Association of American Colleges, and Executive Director of the Maryland Independent College and University Association, Dr. Francis was engaged first hand in developing public policy on a broad range of higher education issues. In addition, during the latter portion of his military service as a member of the staff of the Organization of the Joint Chiefs of Staff and as Assistant Naval Attache at the U.S. Embassy in Madrid, Spain, he participated in the preparation and exposition of public policy on national and international affairs.

UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
STATEMENT FOR COMPLETION BY PRESIDENTIAL NOMINEES

Name: Francis (LAST) Richard (FIRST) Haudiomont (OTHER)

Position to which nominated: President, Solar Energy and Energy Conservation Bank

Date of nomination: January 22, 1986

Date of birth: 8/3/25 (DAY) (MONTH) (YEAR)

Place of birth: Boston, MA

Marital status: Single

Full name of spouse:

Name and ages of children: Mark, 35; Clare, 34; Daniel, 30

Education:

Institution	Dates attended	Degrees received	Dates of degrees
Lynbrook HS (NY)	1938	Diploma	1942
U.S. Naval Academy	1945-49	B.S.	1949
Yale University	1955-58	M.A.	1958
George Washington Univ.	1961	--	--
Univ. of Maryland	1967-77	Ph.D.	1977

Employment record: List below all positions held since college, including the title and description of job, name of employer, location, and dates.

U.S. Marine Corps		1949-69
Vice President, Washington College	Chestertown, MD College Adm.	1970-71
Exec. Dir. (Assoc.), MD Independent Colleges & Univs.	West Street Annapolis, MD	1971-74
Assoc. Dir., Fed. Rels. Assoc. of Am. Colleges	1818 R St., NW Wash., DC	1974-76
Dir., Gov't. Rels. Nat'l Assn. Indp. Col. & Univ.	1717 Mass. Ave., NW Wash., DC	1976-78
Exec. Vice President, Nat'l Multi Housing Assoc.	1800 M Street, NW Wash., DC	1978-81
Special Assistant, Dept. of HUD, PD&R	451 7th St., SW Wash., DC	1981-82
Manager, Solar Energy and Energy Conservation Bank	451 7th St., SW Wash., DC	1982-Present

Employment record—Continued

Military service: Describe any military service not listed above, including dates, rank, and type of discharge.

U. S. Marine Corps	1943-45	Pvt - Sgt, Honorable
U. S. Naval Academy	1945-49	Midshipman, Graduation
U. S. Marine Corps	1949-69	2nd Lt - Lt Colonel, Rtd.
U. S. Marine Corps	1970	Lt Colonel-Recall-Temp. Active Duty

Honors and awards: List below all scholarships, fellowships, honorary degrees, military medals, honorary society memberships, and any other special recognitions for outstanding service or achievement.

Navy Commendation Medal w/Combat "V" (US)

Joint Services Commendation Medal (US)

Order of Naval Merit (Spain)

PI Sigma Alpha Nat'l Honor Society in Political Science

Memberships: List below all memberships and offices held in professional, fraternal, business, scholarly, civic, charitable and other organizations.

Organization	Dates	Office held (if any)
Country Club of Fairfax	1981 - Present	
US Naval Academy Alumni Assn.	1949 - Present	
Woodlawn Country Club	1967-81	Secretary Stock Bd.
American Embassy Personnel Association	1963-66	President
Mt. Vernon Civic Association	1967-73	
Cub Scouts of America Personnel	1965-66	Commissioner
Shadow Walk Homes Association	1973-85	President

Published writings: List the titles, publishers and dates of any books, articles, or reports you have written.

"Marine Professor," Marine Corps Gazette 1960

Containerizational International, Various Articles 1969-70

Future employment relationships:

1. Will you sever all connections with your present employer, business firm, association or organization if you are confirmed by the Senate?

N/A.

2. Do you have any plans after completing government service to resume employment, affiliation or practice with your current or any previous employer, business firm, association or organization?

No

3. Has a commitment for employment after you leave government been made to you by anyone? Have you made any such commitment?

No

4. (a) If you have been appointed for a fixed term, do you expect to serve the full term?

N/A

Future employment relationships—Continued

(b) If you have been appointed for an indefinite term, are there any known limitations on your willingness or ability to serve for the foreseeable future?

No

Financial statement:

1. Attach a copy of your Executive Personnel Financial Disclosure Report (SF 278).

2. List sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services and firm memberships or from former employers, clients, and customers. Amounts should be indicated by the categories established for reporting income on Form SF 278, Schedule A.

USMC Pension $1370/mo (reduced from $2160/mo by virtue of Government employment)

3. Are you currently a party to any legal action? If so, describe its nature and status.

No

4. Have you ever declared bankruptcy? If so, describe the circumstances.

No

5. Have you filed a Federal income tax return for each of the last 10 years? If not, please explain.

Yes

6. Has the Internal Revenue Service ever audited your Federal tax return? If so, what resulted from the audit?

No

Potential conflicts of interest:

1. List any investments, obligations, liabilities, or other relationships which might involve potential conflicts of interest with the position to which you have been nominated.

None

2. Describe any business relationship, dealing or financial transaction (other than taxpaying) that you have had during the last 10 years with the Federal Government, whether for yourself or relatives, on behalf of a client, or acting as an agent, which might in any way constitute or result in a possible conflict of interest with the position to which you have been nominated.

None

3. Describe any lobbying activity which you have performed during the past 10 years with respect to legislative or administrative actions at the Federal, State or local level.

Assoc. Dir., Fed. Relations, Assoc. of American Colleges (Higher Education Issues)
Director, Gov't Relations, Nat'l Assoc. of Independent Colleges and Universities (Higher Education Issues)
Executive Vice President, Nat'l Multi Housing Council (Housing Issues)

4. Have you been informed of the conflict of interest laws and regulations applicable to the position to which you have been nominated?

Yes

Potential conflicts of interest—Continued

5. Explain how you will resolve any potential conflict of interest that may be disclosed by your responses to this form and the attachments thereto. Attach a statement of the appropriate agency ethics official explaining the applicable laws or regulations, any potential conflicts, and the action required to resolve such conflicts.

N/A

6. Explain how you will resolve any potential conflicts of interest that may arise in the future if you are confirmed for the position for which you have been nominated.

HUD's Office of General Counsel has briefed me on the requirements of the statutes and regulations on conflicts of interest and has given me the attached memorandum of November 14, 1983, which indicates the statutes and regulations on conflict of interest applicable to this position. I am satisfied that my current financial interests and outside activities present no conflict of interest, and I will consult the Office of General Counsel before making any change in my financial investments or undertaking any new outside activities.

Public disclosure: Do you have any objections to this form and the attachments thereto being made public?

No

AFFIDAVIT

I, Richard H. Francis, being duly sworn, hereby state that I have read the foregoing Statement for Completion by Presidential Nominees, including all attachments thereto, and that the information provided therein is, to the best of my knowledge and belief, current, accurate, and complete.

Richard H. Francis
(Signature of Nominee)

Subscribed and sworn to before me this 11th day of July, 1986.

Patricia A. Gifford
Notary Public

My Commission Expires January 31, 1988

Form approved by the Committee February 5, 1985.

U.S. GOVERNMENT PRINTING OFFICE : 1985—43-000

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410

SOLAR ENERGY AND
ENERGY CONSERVATION BANK

'Jul 11 1988

Honorable James A. McClure
Chairman, Committee on Energy and
Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Please be advised that pursuant to section 201(b) of the Ethics in Government Act of 1978, as amended, I have informed the appropriate ethics officials that the information required by section 101(a)(1)(A) with respect to income and honoraria is current as of (date five days prior to hearing date).

Sincerely,

Richard H. Francis

Richard H. Francis
President-Designate

Washington, D.C. ss

Subscribed and sworn to before me this 11th day of July, 1988.

Patricia A. Gifford

Notary Public
My Commission Expires January 31, 1989

cc: The Honorable J. Bennett Johnston

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE GENERAL COUNSEL

JUL 2 1986

MEMORANDUM FOR: Richard H. Francis, President (Designate),
Solar Energy and Energy Conservation Bank

FROM: David D. White, Assistant General Counsel for
Administrative Law

SUBJECT: Compliance with Conflict of Interest
Laws and Regulations

As you have requested, this memorandum will set forth the laws and regulations on conflict of interest which will apply to you in the position of President of the Solar Energy and Energy Conservation Bank. This information is to be submitted to the Senate Committee on Energy and Natural Resources in connection with your nomination to that position.

There are no special conflict of interest provisions applicable to the position of President of the Solar Bank. Because the position is in the Department of Housing and Urban Development it is subject to HUD's Standards of Conduct regulations, 24 C.F.R. Part 0. In addition, like all positions in the executive branch, it is subject to the criminal conflict of interest laws, 18 U.S.C. §§202-209. You are also required by the Ethics in Government Act to submit an Executive Pesonnel Financial Disclosure Report (SF-278).

You are aware that HUD's Standards of Conduct regulations generally prohibit your acquiring financial interests or engaging in outside employment in areas related to HUD's programs. You are also aware that you may not participate, in your Bank position, in any matter in which you, your spouse, partner or organization in which you are employed or hold a position, or organization with which you are negotiating for future employment, has a financial interest.

I have reviewed the SF-278 you filed in May, 1986 and have concluded that it reveals no conflict of interest or other violation of HUD's Standards of Conduct regulations. That form has been approved by John J. Knapp, HUD's General Counsel and Agency Ethics Official and has been forwarded to the Office of Government Ethics for its review.

United States
Office of Government Ethics
P.O. Box 14108
Washington, D.C. 20044

JUL 2 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

In accordance with the Ethics in Government Act of 1978, I enclose a copy of the financial disclosure report filed by Richard H. Francis, who has been nominated by President Reagan for the position of President, Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development.

We have reviewed the report and have also obtained advice from the Department of Housing and Urban Development concerning any possible conflict in light of the Department's functions and the nominee's proposed duties. Based thereon, we believe that Mr. Francis is in compliance with applicable laws and regulations governing conflicts of interest.

Sincerely,

David H. Martin
Director

Enclosure

SF 278 (Rev. 1/85)
Parts Chapter 734
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. 3209-0002

Reporting Status (Check Appropriate Box)			Agency Use Only	OGE Use Only	Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	Termination Date (If Applicable) (Month, Day, Year)
☒ Incumbent	☒ New Entrant, Nominee, or Candidate	☐ Termination Filer	MAY 12 1986	JUN 25 1986	JULY 27, 1981	

	Last Name	First Name and Middle Initial
Reporting Individual's Name	FRANCIS	RICHARD H.
Position for Which Filing	Title of Position: PRESIDENT	Department or Agency (If Applicable): SOLAR BANK, HLD
Location of Present Office	Address (Number, Street, City, State and ZIP Code): 451 7TH ST SW WASHINGTON DC 20410	Telephone No. (Include Area Code): 202 755 7166
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)	Title of Position(s) and Date(s) Held	

Presidential Nominees Subject to Senate Confirmation	Name of Congressional Committee Considering Nomination	Do You Intend to Create a Qualified Diversified Trust?
	BANKING, HOUSING & URBAN AFF ENERGY & NATURAL RESOURCES	☐ Yes ☒ No

Certification	Signature of Reporting Individual	Date (Month, Day, Year)
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.	R H Francis	May 7 1986
Other Review (If desired by agency)	Signature of Other Reviewer: David D White JB	Date (Month, Day, Year): 6/13/86
Agency Ethics Official's Opinion	Signature of Designated Agency Ethics Official/Reviewing Official	Date (Month, Day, Year)
The information contained in this report discloses no conflict of interest under applicable laws and regulations.	Bob Knapp	6/18/86
Office of Government Ethics Use Only	Signature: David H Martin	Date (Month, Day, Year): 7-2-86

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for Income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding **two** calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)

1. The insurance policies reported on previous forms are not held as an investment for the production of income; therefore, filer did not list them as assets on Schedule A of this form.
2. Filer's spouse never received any of the pending pension from Prince William Public Schools (shown on previous forms).
3. The Del Rich Farm is a small horse breeding and Boarding operation, owned by filer and wife, and run on property which is part of filer's residence.

(Check box if comments are continued on the reverse side) ☒

278-100

NSN 7540-01-070-5444

The assets of the wife's IRA are stock in Dominion Resources (Formerly VEPCO), an electric utility and the Dean-Witter-Sears liquid asset fund, a money market fund.

SF 278 (Rev. 1-95)
5 CFR Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name	Assets and Income	Page Number		Schedule A
FRANCIS			1	

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

	BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets								BLOCK C Income															BLOCK D Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)								Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
			None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000		Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
S or DC	Examples	X Y Z Common			X	X					X									X								X	
		Doe Jones & Smith, Hometown, USA			X												partnership income									$50,000			
1		VSMC FINANCE CENTER															PENSION					X				16,452			X
2	S	FIRST TRUST CORP				X							X				IRA				X								X
3		COLLEGE RET EQUITIES FD					X										IRA												X
4		LORD ABBET FUND				X											IRA												X
5		CALVERT GROUP			X								X				SAVINGS		X										X
6	S	St. Mary's Church, Fairfax	Va.														Salary												
7		Del Rich Farm			X												Family Business	X											
8																													
9																													
10																													

SKIP
SKIP

Reporting Individual's Name

FRANCIS

Page Number		Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☒

S or DC	Example	Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
			Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example	X Y Z Common	X			2/1/83			X			
1		N/A										
3												
4												
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☒

S		Source (Name and Address)	Brief Description	Value
	Example	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Example	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1		N/A		
2				
3				
4				
5				
6				

PREVIOUS EDITION USABLE

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U.S. Office of Personnel Management

Form Approved OMB No. 3206-0060

Reporting Individual's Name

FRANCIS

Page Number		Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☒

		Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X) $10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
S or DC	Examples	First District Bank, Washington, DC	Mortgage on rental property, Rehobeth Beach, Delaware	1981	13%	26 yrs.			X		
		John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
1		N/A									
2											
3											
4											
5											
6											

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☒

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/78 ptnership agmnt.
	N/A		

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SF 278 (Rev. 1/89)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3206-0082

Reporting Individual's Name
FRANCIS

Page Number		Schedule D

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution.

Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE [X]

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Non-profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/75	11/83
	N/A				

Part II
Compensation in Excess Of $5000 Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE [X]

	Source (Name and Address)	Brief Description of Duties
Examples	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
	N/A	

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APPENDIX II

Responses to Additional Committee Questions From the Nominees

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July 21, 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman McClure:

Enclosed are my responses to the questions submitted for the record after my confirmation hearing on July 15, 1986.

Should you or other members of the Committee have any additional questions, I will be available to respond.

Sincerely yours,

Marshall A. Staunton

Marshall A. Staunton
Acting Administrator
Economic Regulatory Administration

Enclosure

POST-HEARING QUESTIONS AND ANSWERS

Relating to The

JULY 15, 1986, CONFIRMATION HEARING

of

MARSHALL A. STAUNTON

NOMINEE FOR THE POSITION OF

ADMINISTRATOR OF THE
ECONOMIC REGULATORY ADMINISTRATION

U.S. DEPARTMENT OF ENERGY

Before The

COMMITTEE O ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

Questions from Chairman McClure for Marshall A. Staunton

During the Committee hearing on your nomination, you expressed your agreement with the suggestion that a statute of limitations should be applied to the Department's initiation of new enforcement proceedings based on alleged violations of the petroleum price and allocation regulations in effect prior to January, 1981.

Question 1: If such a statute of limitations were imposed, would it be reasonable to include in the statutory language the typical exceptions, such as deliberate concealment of material facts on the part of potential defendants?

Answer: With regard to the operation of a statute of limitations on new enforcement proceedings, presumably the normal tolling provisions would apply. While I have no objections to a statute of limitations, I do anticipate that all remaining cases not in litigation will be filed by the end of 1986.

QUESTIONS FROM CHAIRMAN MCCLURE

Question 2: Assuming that the Department intends to continue initiating new cases, what is your estimate of the amount of time required to complete the process?

Answer: ERA is not currently "initiating" cases, it has been concluding audits conducted over the last several years. In fact, no new audits or investigations have been begun in over a year. Barring unforeseen circumstances, my goal is to have all remaining cases in litigation by January 1, 1987.

QUESTIONS FROM CHAIRMAN MCCLURE

Question 3: If a statute of limitations of six additional months were imposed, approximately how many potential cases would have to be abandoned? What is their estimated value, in terms of the amount that DOE would reasonably be expected to collect?

Answer: No cases would be abandoned given a six-month deadline because litigation of all nonsubpoena cases, whether administrative and/or judicial will have been initiated. As to those cases where we have encountered subpoena enforcement problems, it is unlikely that a defense of the running of the statute would be successful where the subject firm had been the cause of the delay.

QUESTIONS FROM SENATOR JOHNSTON

Question 1: Is the ERA initiating new oil overcharge cases? What types of cases are these?

Answer: The ERA is not initiating any new audits at this time. The ERA is completing audits of cases already inititated. The types of cases in this second category involve the following issues: tie-in sales, nonproduct costs, product costs, crude costs, entitlements, crude resellers, and natural gas liquids.

QUESTIONS FROM SENATOR JOHNSTON

Question 2: Why would ERA be initiating cases when the policy--as we have been told--is to close out oil overcharge enforcement? Is this the policy? Please explain.

Answer: It is not the policy of the ERA to initiate any new audits. The policy is to conclude all oil overcharge case development in pending audits. Since October 1985, no new audits have been commenced. Delays in the issuance of Proposed Remedial Orders (PRO) have occurred primarily because of delays in obtaining factual information regarding the auditors' inquiries.

QUESTIONS FROM SENATOR JOHNSTON

Question 3: How many new cases does DOE expect to initiate in the next year? What type of cases will these be? How much money will be involved?

Answer: The DOE has approximately 60-70 cases under audit. Until the audits are completed, we are not able to say definitely whether a PRO will be issued. However based on experience, I would expect 80-90% of these cases to result in the issuance of a PRO issued. The decision to issue or not to issue a PRO in all cases will be made by the end of calendar year 1986.

The types of cases are those described in the answer to your first question.

At this time, I would prefer not to specify the total amount of money which may be involved in these cases. While it appears that the total in these 60-70 cases will exceed $250 million, until we decide which cases will be brought and which may be dropped, a more precise number would rely on too much speculation.

QUESTIONS FROM SENATOR JOHNSTON

Question 4: Please describe the current case load of the ERA? What are the major categories of unresolved cases? List the cases in each category and provide your estimate of the dates by which these cases will be resolved or finally ready for litigation.

Answer: The entire case load of ERA is 371 cases. Of those, 211 cases are presently under litigaton before the courts, FERC or OHA. Based on our past experience these cases will go through the litigation process in 4 to 6 years.

With respect to cases in case development I have attached a list of these cases by name and the scheduled date for their resolution either by issuance of a PRO, dismissal or settlement.

Attachment Question 4

STATUS REPORT ON ERA WORKING (PRE-LITIGATION) INVENTORY

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Agway RTYB00101	C.O.to be issued	9/30/86	National/ Sommers
American Petrofina, Inc. RFRNG00001	PRO to be issued	8/15/86	National/ Clark
Anchor Gasoline Corp. 740S01247	PRO being drafted	8/29/86	National/ Corrallo
Armada Petroleum Corp. 650X00342	Subpoena to be enforced by D.O.J.	8/01/86	National/ Whieldon
Ashland (tie-in sales)	Investigation to be completed.	9/30/86	National/ Whieldon
Avant Petroleum 600X00284	C.O. is final. Case to be removed from working inventory.		National/ Lorenz
Baker Service Co. of Ala. 400H00255	PRO to be issued	7/31/86	National/ Solit
Ball Marketing 640X00184	Petition to enforce subpoena to be filed by D.O.J. by 8/01/86. Subpoena is for update material.	8/01/86	National/ Whieldon

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Bi-Petro N00S90136	PRO to be issued	9/30/86	National/ Sulton
Calumet N00S90139	C.O. to be signed	7/31/86	National/ Sulton
Carbonit Houston 650X00253	Houston to send draft PRO to D.C. by 11/30/86. Final PRO to be issued by 12/31/86.	(a) 11/30/86 (b) 12/31/86	Houston/ Webb
Cashco Energy Corp. 650C00365	Case to be closed	7/31/86	Houston/ Webb & Pate
Chemical Terminal & Transport 400H00256	PRO to be issued.	7/31/86	National/ Solit
Clark RCKB00101	PRO to be issued	7/15/86	National/ Whieldon
Clark Oil (non-product)	PRO to be issued	9/01/86	National/ Whieldon
Clark Oil (foreign payments)	Audit results to be reviewed. Decision on whether to issue PRO by 8/15/86	8/15/86	National/ Whieldon

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Concord Petroleum	On remand from OHA. PRO to reissued by Houston by 10/01/86	10/01/86	Houston/ Webb
DeMenno Resources N00S90219	PRO to be issued	11/28/86	National/ Sulton
DeMenno Resources N00S98095	PRO to be issued	9/30/86	National/ Sulton
DeNovo Oil and Gas 650C00367	PRO withdrawn. Case to closed		
Diamond Shamrock (tie-in sales)	Houston to send draft PRO to D.C. by 9/30/86. Final PRO to be issued by 12/31/86.	(a) 9/30/86 (b) 12/31/86	Houston/ Webb
Doma Corp. 6A0X00111	Dallas will send draft PRO to D.C. by 8/15/86. Final PRO to be issued by 10/01/86.	(a) 8/15/86 (b) 10/01/86	Dallas/ Lemos
Exxon REXLD0201	C.O. being made final. Case to be closed.	8/31/86	National/ Lorenz
Exxon (NGL)	C.O. being made final. Case to be closed.	8/31/86	National/ Lorenz
Fuel Oil Supply & TE 650X00284	Subpoena to be reissued by Houston for update material by 8/01/86.	8/01/86	National/ Whieldon

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Gasco Inc. 930H00335	Decision whether to enforce subpoena.	8/01/86	National/ Whieldon
Gold King Refining N00S90220	PRO to be issued.	9/30/86	National/ Sulton
Gulf Oil (tie-in sales)	PRO to be issued.	8/31/86	National/ Whieldon
Howell Industries 650X00356	Houston to send draft PRO to D.C. by 9/15/86. Final PRO to be issued by 12/31/86.	(a) 9/15/86 (b) 12/31/86	Houston/ Webb
Inter-North Inc. 730V00221	PRO to be issued.	12/31/86	Dallas/ Lemos
Intercontinental Oil 650X00315	Houston to send draft PRO to D.C. by 8/15/86. Final PRO to be issued by 12/31/86. Subpoena dispute with company about update material still extant. This dispute may delay issuance of PRO beyond projected date.	(a) 8/15/86 (b) 12/31/86	Houston/ Webb
KENCO N00S90221	PRO to be issued.	7/31/86	National/ Sulton

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
LaJet 6A0X00265	PRO to be issued.	7/31/86	National/ Sulton
McWhirter Oil Co. 930H00291	Houston to send draft PRO to D.C. by 8/30/86. Final PRO be issued by 12/31/86.	(a) 8/30/86 (b) 12/31/86	Houston/ Webb
Merit Petroleum Inc. 640X00441	Houston to send draft PRO to D.C. by 7/30/86. Final PRO to be issued by 12/31/86.	(a) 7/30/86 (b) 12/31/86	Houston/ Webb
Mid-Tex ND0S90461	PRO to be issued.	7/31/86	National/ Sulton
Morgan Petroleum 641S00432	Case to be closed by 8/01/86 if D.C. concurs.	8/01/86	Houston/ Webb
Morrison Petroleum Co. ND0S90459	PRO to be issued.	8/29/86	National/ Sulton
Mt. Airy 650X00286	PRO to be issued by Houston after national office review.	7/15/86	National/ Grover
Murphy CMUU20000	PRO to be issued.	8/30/86	National/ Gass

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Mutual Pet Marketing 6C0X00278	PRO to be issued by Dallas after national office review.	7/15/86	National/ Greene
North American Petroleum Co. (LaJet) N00S90477	PRO to be issued.	7/31/86	National/ Sulton
Oasis Petroleum 930H00301	Decision on whether to issue subpoena pending result in other OHA litigation.	7/15/86	National/ Whieldon
Oasis Petroleum 940X00217	Case to be closed.	8/31/86	National/ Whieldon
Oklahoma Refining Co. (entitlements)	PRO to be re-issued.	9/01/86	National/ Lacy
Pennzoil NPNG00301	PRO to be issued.	7/31/86	National/ Sulton
Phibro Corp. 6C0X00249	Dallas to send draft PRO to D.C. by 8/30/86. Final PRO to be issued by 10/30/86.	(a) 8/30/86 (b) 10/30/86	Dallas/ Lemos
Phillips Petroleum (tie-in sales) NPHE00601	PRO to be issued.	9/30/oo	National/ Whieldon

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Port Petroleum N00598098	In Litigation. Case to be moved out of working inventory.		National/Clark
Questor Petroleum 650X00303	Houston to send draft PRO to D.C. by 9/30/86. Final PRO to be issued by 12/31/86.	(a) 9/30/86 (b) 12/31/86	Houston/ Webb
Reinauer Petroleum Co. 240H00492	PRO to be reissued by 8/31/86	8/31/86	National/ Clark
Sabine Corporation 650C00370	C.O. is final. Case to be removed from working inventory.		National/ Lorenz
San Joaquin Ref. 910S00001	PRO to be issued.	12/31/86	National/ Sulton
Scruggs Energy 6C0X00286	In litigation. Case to be moved from working inventory.		National/ Tucker
Shell (NGL)	PRO to be issued.	8/01/86	National/ Whieldon
Southwestern Refining Co. N00590456	PRO to be issued.	9/30/86	National/ Sulton

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Sun (tie-in sales)	Investigation to be completed.	9/30/86	National/ Whieldon
Tesoro RTSB00001 (Refinery Pricing)	Final PRO ready to be issued by Dallas. Awaiting authorization from D.C.	Tbd	National/ Corrallo
Tesoro RTSB00601 (Crude Resales)	Audit complete. Review of investigation to be completed.	9/30/86	National/ Blake
Tesoro (tie-in sales)	Draft PRO to be sent to D.C. by 9/30/86. Final PRO to be issued by 12/31/86.	(a) 9/30/86 (b) 12/31/86	Houston/ Lemos
Texas American N00S90460	PRO to be issued.	7/31/86	National/ Sulton
Texas Asphalt & Refining N00S90457	PRO to be issued.	10/31/86	National/ Sulton
Texas Energy Reserve 6A0X00319	FRN of PRO to be issued.	7/15/86	National/ Dove
Texaco (tie-in sales)	Houston to send draft PRO to D.C. by 9/15/86. Final PRO to be issued by 12/31/86.	(a) 9/15/86 (b) 12/31/86	Houston/ Webb

Company Name	Type of Action Anticipated/Comments	DATE	OFFICE/ CONTACT
Texaco (NGL)	Additional audit analysis to be done. PRO to be issued by 9/30/86.	(a) 7/30/86 (b) 9/30/86	National/ Whieldon
The Crude Company 6CUX00313	Dallas to send draft PRO to D.C. by 8/15/86. Final PRO to be issued by 10/15/86.	(a) 8/15/86 (b) 10/15/86	Dallas/ Lemos
Thetis Energy Corp. 650C00377	In Litigation. Case to moved from working inventory.		National/ Gass
Uni Oil Inc. 650X00343	Petition to enforce subpoena to be filed by DOJ by 8/01/86. Subpoena is for update material.	8/01/86	National/ Whieldon
Valentine Construction Co. N00X00683	PRO to be issued.	9/30/86	National/ Sulton
West Coast Oil 961S00028	PRO to be issued.	12/31/86	National/ Sulton
Western Refining N00S90458	PRO to be issued.	12/31/86	National/ Sulton
Weston Petroleum 110H00512	Case to be closed.	8/01/86	National/ Whieldon
Wickett Ref. Co. N00S90122	PRO to be issued.	12/31/86	National/ Sulton

QUESTIONS FROM SENATOR JOHNSTON

Question 5: Please provide the Committee with a step-by-step plan including milestones, for completion of these cases by ERA?

Answer: As to cases presently in audit, the status list and milestones of these actions is as set forth in the list provided in the answer to your fourth question.

The progress of cases in litigation in OHA, FERC and the courts are under the control of those tribunals and because of this we are unable to provide any meaningful scheduling.

QUESTIONS FROM SENATOR JOHNSTON

Question 6: If the settlement [Stripper Well] is implemented without change, how much money will be received for the U.S. Treasury from crude oil cases in each of the Fiscal Years 1986, 1987, 1988 and 1989? How much in total for fiscal years?

Answer: It is estimated that the moneys to be distributed to the U.S. Treasury in each of the fiscal years is approximately as follows:

FY 1986	$290 million
FY 1987	750 million
FY 1988	540 million
FY 1989	260 million
Total	$1.840 billion

It must be remembered that these future funds are to be collected in enforcement proceedings. The amounts are subject to litigation risks and the settlement process and no precise estimate can be made of the totals. Furthermore, the time frame for the collection of these oil overcharge moneys is uncertain given the delay and lack of control of scheduling inherent in any litigation. It should be noted that although DOE won its judgment against Exxon in 1983 (after some five years of litigation) the monies were not distributed until 1986, after Exxon exhausted all its avenues of appeal.

QUESTIONS FROM SENATOR JOHNSTON

Question 7: For petroleum overcharge cases not covered by the settlement (refined products and natural gas liquids) how much is estimated will be recovered for the U.S. Treasury in each of these years and in total? In these cases, assume that all persons who come forward and can prove that they were overcharged are compensated from overcharge moneys, and that the remaining money is deposited in the Treasury.

Answer: With regard to refined product cases, the anticipated recovery is much smaller, probably under $200 million. Furthermore, in such cases, we have transferred funds received thus far to the Office of Hearings and Appeals (OHA) for special refund proceedings. Because refined products may be purchased directly by consumers, OHA has more claims than crude oil refund cases. Accordingly, a large portion of the funds recovered is likely to be paid to claimants. Current OHA policy is to distribute any remaining funds to the States. Thus, a recovery for the Treasury in these cases is not anticipated in the absence of a change by OHA.

QUESTIONS FROM SENATOR JOHNSTON

Question 8: Assuming the [Stripper] settlement is implemented, how much money will be distributed to the States in each of these years and in total for all fiscal years?

Answer: It is estimated that the moneys to be distributed to the States in each of the fiscal years is approximately as follows:

FY 1986	$880 million
FY 1987	160 million
FY 1988	540 million
FY 1989	260 million
Total	$1,840 billion

These estimates are subject to the same caveats expressed in the answer to your sixth question.

QUESTIONS FROM SENATOR JOHNSTON

Question 9: What are the uses to which the States are permitted to put the money they receive under the Stripper Well settlement? How will the DOE monitor these expenditures?

Answer: The uses to which the States may put the funds are set forth in Exhibit J to the Settlement Agreement. A copy of said exhibit is attached hereto.

With respect to how the DOE will monitor the program, the states are required to report to DOE and the District Court 30 days prior to expending any funds to insure compliance with the settlement terms. In addition each State must report, annually as to the programs and the amount expended, both to the Court and DOE.

Attachment Question 9

SETTLEMENT
EXHIBIT J

EXAMPLES OF DOE APPROVED STATE RESTITUTIONARY PROGRAMS

I. TRANSPORTATION
- A. *General Driving Public*
  1. Fuel efficient traffic signal programs[1]
  2. Highway traffic management programs[2]
  3. Motor fuel and re-cycling programs[3]
  4. Highway and bridge maintenance and repair[4]
  5. Public transportation projects[5]
- B. *Consumers*
  1. Car care clinics[6]
  2. Energy education for drivers training[7]
  3. Ridesharing programs[8]
  4. Marketing of state supported passenger rail and mass transit[9]
  5. Bicycle promotion program[10]
- C. *Commercial, Industrial, Government*
  1. Vehicle fleet maintenance programs[11]
  2. Transportations systems management assistance[12]
  3. Re-manufacturing/re-fitting transit buses[13]
  4. Computerized school bus routing[14]
  5. Alternative transportation fuel programs[15]
  6. Transit system re-fitting loan program[16]

II. RESIDENTIAL
- A. *Heating*
  1. Weatherization[17]
  2. Retro-fitting[18]
  3. Tune-ups[19]
  4. Energy audit[20]
  5. Energy assistance[21]
  6. Demonstration projects[22]
  7. Data collections and dissemination[23]
  8. Energy management services[24]
  9. Conservation promotion programs[25]
  10. Solar energy demonstration programs[26]
  11. Solar energy lending programs[27]
- B. *Electricity*
  1. Weatherization[28]
  2. Energy auditing[29]
  3. Energy assistance[30]
  4. Demonstration projects[31]

III. COMMERCIAL
- A. *Industrial/Agricultural*
  1. Energy loans[32]
  2. Energy assistance[33]
  3. Conservation[34]
  4. Bio-Mass conservation[35]
- B. *Small Business/Government/Education*
  1. Energy accounting incentives[36]
  2. Loans and technical assistance[37]
  3. Energy audits[38]
  4. Energy efficiency[39]
  5. Co-generation[40]

QUESTIONS FROM SENATOR JOHNSTON

Question 10: What record does DOE have of the uses to which previous oil overcharges moneys have been put by the States? Please provide the Committee any material you have that describes the expenditure of the moneys.

Answer: The ERA has records of the expenditure of moneys in the Chevron and Warner Amendment disbursements. A summary of Warner Amendment information is attached. The full report is available if desired but because of its size it was not included. A copy of a report compiled from information gathered by ERA is included.

Attachment Question 10

STATES' RESPONSES TO MAY 14, 1985
"WARNER" LETTER

SUMMARY OF RESPONSES

Expenditures

- 6 states have expended all funds received.
- 22 states have expended at least 75% of funds received.
- 13 states have expended at least 50% of funds received.
- 9 states have expended at least 25% of funds received.
- 2 states have expended at least 10% of funds received.
- 3 states have expended less than 10% of funds received.
- Missouri and Maine reported discrepancies in the amounts of funds received.

Interest

- 12 states report General Fund interest.
- 11 states report no interest earned.
- 26 states accruing interest for benefit of Section 155 programs.

Ambiguities

- 6 states submitted ambiguous responses or did not address the interest issue at all.
- 1 state submitted a letter without a signature.
- 1 state will send interest information - no interest yet expended.

No Response Received

- Texas has yet to respond to the May 14, 1985 letter. Texas has been contacted at least twice.

States' Expenditures of Funds

100%	At least 75%	At least 50%	At least 25%	At least 10%	Less than 10%
Indiana	Alabama	Am. Samoa	Connecticut	New Jersey	Alaska*
Kentucky	Arkansas	Arizona	Delaware	S. Carolina	Louisiana
Michigan	California	Florida	Guam		South Dakota
N. Dakota	Colorado	Mississippi	Hawaii		
Vermont	D.C.	Nebraska	Iowa*		
Wyoming	Georiga*	N. Carolina*	Mass.		
	Idaho	Nevada	Montana*		
	Illinois	New Hampshire	New Mexico*		
	Kansas	New York*	Pennsylvania*		
	Maine	Oregon			
	Maryland	Tennessee			
	Minnesota	Utah			
	Missouri	Virgin Islands			
	N. Marianas				
	Ohio				
	Oklahoma				
	Puerto Rico				
	Rhode Island				
	Virginia				
	Washington				
	W. Virginia				
	Wisconsin				

* With the addition for funds contractually obligated, expenditures for several states would change as follows:

Alaska -	at least 50%
Georgia -	100%
Iowa -	at least 50%
Montana -	100%
New Mexico -	at least 50%
New York -	at least 75%
North Carolina -	100%
Pennsylvania -	at least 50%

States Reporting General Fund
Interest Or No Interest Earned

General Fund	No Interest
California	American Samoa
Delaware*	Guam
Maryland	Kentucky
Michigan	Louisiana
Minnesota	Northern Marianas
Missouri*	Oklahoma
New Hampshire	Rhode Island
New Mexico	Vermont
Ohio*	Virgin Islands
South Carolina	West Virginia
Tennessee	Wyoming
Wisconsin	

* Presently in General Fund; will attribute interest to Section 155 programs in the future.

Responses Indicating No Problems Regarding Interest

Alabama
Alaska
Arizona
Arkansas
Colorado
Connecticut
D.C.
Florida
Georgia
Hawaii
Idaho
Illinois
Indiana
Kansas
Maine
Mississippi
Missouri
Montana
Nebraska
Nevada
New Jersey
New York
North Carolina
Oregon
South Dakota
Utah
Washington

Ambiguous Responses

Iowa - State law requires separate interest bearing account -- $62,038 of interest used for legal fees incurred in obtaining overcharge funds

Kansas - earned interest - legislation will be pursued to allow interest to be expended pursuant to $155

Maine - received $1,450,000 - accounts only for $1,390,000

Missouri - received $3,731,800 - is accounting for $5,178,816 (exclusive of interest)

New Mexico - letter not signed (for signature of Governor)

N. Dakota - did not address interest in letter

Pennsylvania - developing ways to transfer $ into interest bearing oil overcharge fund;

Puerto Rico - will send information letter -- no expenditures of interest to date.

64-010 O - 86 - 7

Department of Energy
Washington, DC 20585

The attached summary of State uses for the $25 million in funds received pursuant to the Chevron Consent Order (see attached, 46 Fed Reg. 52221, October 26, 1981) was prepared from information generated by the Department of Energy. These funds were provided to the States by Standard Oil of California (Chevron) in settlement of alleged oil overcharge violations by Chevron of the pricing program in effect until January of 1981. The money was to be used by the States "in ways that will generally benefit consumers of gasoline, No. 2 diesel fuel, No. 2 heating oil, and kerosene-based jet fuel" (letter from Chevron states, 9/81). The remedial projects range from "highway and bridge maintenance and repair" to weatherization and energy assistance programs.

As a precondition to the receipt of such funds, each State certified to Chevron that the funds would be devoted to one or more of the following remedial actions:

1. Highway and bridge maintenance and repair.
2. Ridesharing (i.e. vanpool and carpool) programs.
3. Public transportation projects.
4. Residential or commercial building energy audits.
5. Grant or loan programs for weatherization or other energy conservation equipment installation.
6. Energy assistance programs.
7. Airport maintenance or improvement.
8. Reduction in airport users fees.
9. Energy conservation or energy research offices and administration.

Attachments

National
Consumer
Law Center
Inc.
236 Massachusetts Ave., NE
Washington, DC 20002
(202) 543-6060

Boston Office:
Eleven Beacon St.
Boston, MA 02108
(617) 523-8010

July 21, 1982

Joan Nichols, Esq.
Associate Solicitor
Economic Regulatory Agency
Department of Energy
12th and Pennsylvania Avenues, N.W.
Room 3108
Washington, D.C. 20461

Dear Joan:

I am belatedly getting to you a summary of the State uses of Chevron monies - a reasonably encouraging picture. Why don't you folks use this approach? It surely would save you a lot of grief, as well as (in our view) getting you a lot closer to the aim of restitution.

Sincerely,

Charles E. Hill

CEH:glw

Enclosure

National Consumer Law Center Inc.
236 Massachusetts Ave., NE
Washington, DC 20002
(202) 543-6060

Boston Office
Eleven Beacon St
Boston, MA 02108
(617) 523 6010

MEMORANDUM

FROM: Jeff Genzer

DATE: May 12, 1982

RE: State Distribution Plans for Chevron Consent Order Funds

This memorandum is a summary of state plans for the expenditure of $25 million in funds accumulated under the Chevron Consent Order (see 46 Fed Reg. 52221, October 26, 1981). These funds were provided to the states by Standard Oil of California (Chevron) in settlement of alleged oil overcharge violations by Chevron of the pricing program in effect until January of 1981. The money was to be used by the states "in ways that will generally benefit consumers of gasoline, No. 2 diesel fuel, No. 2 heating oil, and kerosene-based jet fuel" (letter from Chevron to States, 9/81). The suggested remedial projects range from "highway and bridge maintenance and repair" to weatherization and energy assistance programs.

Funding decisions have now been made for 42 jurisdictions out of the total of 46 states or other jurisdictions receiving funds.*/ Of the participants in the $25 million pool,

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*/ Chevron's refined products are not sold in every state; hence, some states do not participate in the refund.

information was available from DOE concerning all but New York ($881,675)*/ and South Dakota ($175). A number of states' decisions have yet to be made, in some instances because legislative action is required before final allocations can be made. The total amount of each state's funds and the date our information was received is noted parenthetically (for most states the date is late March, when state records on file at the Department of Energy were released and reviewed).

A review of those decisions indicates several interesting patterns. First, the poor have not received their fair share of these funds. In fact, of the $20,610,757 in Chevron funds committed to specific uses thus far or with respect to which DOE had information, only 5.4% ($1,108,250) have clearly been allocated to programs directly aiding the poor, all of this amount being spent on conservation/weatherization efforts.**/ The states that targeted specific funds for the poor were Connecticut, the District of Columbia, Georgia, Indiana, Massachusetts, New Hampshire, Pennsylvania, Vermont, and Washington. These efforts range from Pennsylvania's oil

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*/ As of May 12, New York had not made a determination as to the use of funds.

**/ The size of this use's share is surprisingly small because, although there already is a separately funded low income weatherization program, the DOE program was running out of funds in most states in the fall of 1981 and had an uncertain financial future; thus, the case for use of funds in the DOE program, to tide the program over, was particularly strong.

furnace retrofit project, with 41.3% of their funds, to Massachusetts' multi-unit rental housing program with its full $341,000.*/

The remainder of the funds have been disbursed in a broad ranging manner. The largest single use was for the schools and hospitals program (32.8%), due largely to California's use of all its $6,642,275 share for this program. The vast majority of states spent their money through existing state or federal programs, in at least a significant number of cases apparently backing out state funds which would otherwise have been committed to that program, or saving a program which otherwise would have been eliminated. Most of the states divided their funds among a myriad of state programs or efforts, a number of them spending no more than 10% on any given program. General conservation programs were funded in 13 states, including energy audits, retrofits etc., receiving over $2.8 million (13.7% of total funding). Energy planning or management functions were funded by 9 states, at over $2.3 million (11.5% of total funding). Transportation projects, as a broad category, received the greatest level of funding. Transportation conservation, involving such activities as ridesharing, received funds in 11 states, amounting to over $1.4 million (7.3% of total funding). Road repair projects also took a significant share of the funding in 5 states (7.6%

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*/ While it can be argued that the poor will benefit proportionately from other state uses, a review of those uses indicates that most are heavily skewed to a non-poor constituency and/or hold little of value to the poor.

of total funding), including New Jersey's commitment of all its $700,000 to repair a bridge over the Passaic River and a commitment of $500,000 from Alabama for road improvements to a coal gasification project site. Kentucky put the bulk of their funds directly into synfuels development, in the amount of $856,000. These uses point to the need for a much tighter definition of acceptable "energy" projects qualifying for the receipt of funds.

In assessing the saliency of these figures to future state use of oil overcharge funds, several caveats are in order. First, the Chevron funds were probably looked to by the states as a short term windfall, and decisions regarding these funds may therefore be only a partial guide to what states would do if they had a steady stream of overcharge funds at a substantial level. Second, and a related point, the funds were made available with little advanced warning and with a relatively short decision-making period. Hence, there was generally little publicity and no consumer involvement in how the decisions were arrived at on the state level.*/ Nevertheless, from the standpoint of poor people, there is no reason to think that low income consumers will do better, under an unfettered state distribution system with no assured level of assistance or assured flow of benefits, than they did in this first, trial run.

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*/ This is something which must surely be remedied in any future state plan approach.

1) ALABAMA: ($1,052,834) (1/22/82) Highway and road improvements to coal gasification project site ($500,000/47.5%); State Energy Conservation, including ridesharing, commercial and light industrial energy audits, and truck and bus fuel economy ($140,000/13.3%); administration of conservation programs ($100,000/9.5%); alcohol and wood energy promotional and assistance program ($50,000/4.8%); energy research support related to production and consumption (apparently used for study of making ethanol using steam) ($100,000/9.5%); appropriate technology small grants ($51,000/4.8% + any interest from other funds); utilities section of Attorney General's Office ($50,000/4.8%); Consumer Protection Division of Attorney General's Office ($50,000/4.8%).

-CONTACT PERSON: Jack F. Ravan
Director
Alabama Department of Energy
25 Washington Avenue
Montgomery, Alabama 36130
(205) 832-5010

2) ALASKA: ($590,900) (3/22/82) Energy conservation and management information services, to continue EES program and replace federal funding ($232,900/47.9%); to develop an energy data base for comprehensive planning and development strategies using electronic data processing in order to promote energy efficient management ($108,000/18.3%); establishment of a transportation conservation program, including planning and implementation of a vehicle efficiency program, assistance to carpooling and mass transit, and emergency planning ($200,000/33.9%).

-CONTACT PERSON: Lloyd Pernela,
Director
Department of Commerce and Economic Development
Division of Energy Power Development
Mackay Building, 8th Floor
338 Denali Street
Anchorage, Alaska 99501
(907) 276-0512

3) ARIZONA: ($857,200) (3/22/82) Farm fuels and energy efficiency program, involving technical analysis of farm fuel and energy use to promote energy conservation, including crop analysis, audits, and later biomass production ($57,000/6.7%); alternative fuels vehicle demonstration, involving purchase of 3 electric cars, and conversion of 3 cars each for alcohol use and propane use, to be provided to schools ($81,000/9.5%); municipal technical services, to augment the "Energy Conscious Community Program" to provide training and workshops in order to help local governments cut energy costs ($230,000/26.8%); expansion of driver education program in order to consider fuel

efficiency, involving training of 500 people, printing materials, and equipping 50 vehicles ($66,000/7.7%); energy staff training, including program design and management, technical skills and communications development ($40,000/4.7%); assistance to large firms (100+ employees) for transportation conservation and additional funding for the energy programs, including planning and implementation of ridesharing and public transit measures ($98,500/11.5%); and additional funding for the Energy Research and Information Center, which provides energy information and education to all segments of Arizona society ($284,700/33.2%).

-CONTACT PERSON: Margaret Walker
Director, Energy Division
1700 West Washington, 5th Floor
Phoenix, Arizona 85007
(602) 255-5371

4) ARKANSAS: ($175) (March 22, 1982) No specific program - just spent by Arkansas State Energy Office.

-CONTACT PERSON: Cherry Duckett
Director
Arkansas Energy Office
One State Capitol Mall
Little Rock, Arkansas 72201
(501) 371-1370

5) CALIFORNIA: ($6,642,275) (11/20/81) State matching grant for the 50/50 State-Federal weatherization program for schools and hospitals.

-CONTACT PERSON: Russell Schweickart
Chairman
California Energy Commission
1111 Howe Avenue
Sacramento, California 95825
(916) 920-7709

6) COLORADO: ($306,300) (March 22, 1982) The entire sum will go to the Office of Energy Conservation and Assistance in order to continue the entire program which includes commercial energy conservation workshops, the EES program, energy data evaluation, residential conservation and renewable technologies, identification of energy saving products, low-income weatherization, and public information programs.

-CONTACT PERSON: Lee White
Executive Director
Office of State Planning and Budget
102 State Capitol Building
Denver, Colorado 80203
(303) 866-3386

7) CONNECTICUT: ($504,495) (March 30, 1982) Funds were divided into three pools, with one going for "Energy Care Kits", basically low cost weatherization kits costing $7 each and distributed to low-income people. In cases where installation is a problem, such as for the elderly, local CAPs are assisting with installation (this program is run by the utilities; 19,547 kits distributed) ($150,000/29.7%); Energy Fuel Bank providing 50¢ for each dollar in private donations for purchases of heating oil for working poor ($100,000/19.8%); and credits to heating oil users not eligible for low-income assistance, for furnace tune-ups, and some administrative expenses ($250,000/49.6%).

-CONTACT PERSON: Michael Sartori
Energy Division
Office of Policy and Management
80 Washington St.
Hartford, Connecticut 06115
(203) 566-8495

8) DELAWARE: ($22,175) (March 22, 1982) These funds will be used for residential or commercial energy audits and conservation, and energy conservation office administration.

-CONTACT PERSON: Donald A. Crews
Energy Office Director
Legislative Hall
Dover, Delaware 19901
(302) 736-4101

9) DISTRICT OF COLUMBIA: ($36,400) (10/27/81) Residential energy audits program for multi-family units. This program will involve data collection, outreach, and development of criteria on rent changes based on energy costs and energy savings. The effort calls for significant cooperation between tenants, landlords, and the D.C. government. Funding for personnel, etc., not hardware.

-CONTACT PERSON: Chuck Clinton
Director
D.C. Energy Office
420 7th St., N.W.
Suite 500
Washington, D.C. 20004
(202) 727-1830

10) FLORIDA: ($2,473,450) (March 29, 1982) No final decision as yet since legislature has asserted authority but both the Florida Senate and House have passed bills setting up a conservation and renewable energy construction account, to be used for energy conservation measures for public schools.

-CONTACT PERSON: Jay Hakes
Florida State Energy Office
301 Bryant Building
Tallahassee, Florida 32301
(904) 488-6764

11) GEORGIA: ($1,781,256) (December 16, 1982) Limited Income Energy Education program (by contract with University of Georgia for visits to low-income homes to advise on low cost/no cost conservation possibilities) ($125,000/7%); residential energy workshops ($155,000/9%); solar energy workshops ($38,000/2%); ridesharing ($120,000/7%); Public Library Technical Assistance ($54,000/3%); home builders workshops ($45,000/3%); commercial energy extension programs ($200,000/11%); local government innovative energy programs ($215,000/12%); vanpooling ($120,000/7%); airport improvements ($200,000/11%); energy office administration ($226,852/12.7%); travel ($30,598/7%); printing and publications ($99,000/5.6%); materials and supplies ($150,000/8.4%).

-CONTACT PERSON: Phil Whitlow
Georgia Energy Office
270 Washington Street, S.W.
Atlanta, Georgia 30334
(404) 656-5176

12) HAWAII: ($923,250) (March 29, 1982) Comprehensive conservation pilot program on Molokai, involving a solar device loan program (200 loans), pre-audits (400), timers, hot water heater insulation, utility load management, and a gasohol feasibility study for this community of 6,000, with only one utility and 18¢/KWH rates ($550,000/59.6%); auto diagnostic van fuel program involving a mobile car diagnostic service for conservation techniques and energy efficiency ($42,500/4.6%); emergency petroleum planning and purchase of petroleum supplies ($300,000/32.5%); and an energy fair and conference ($30,750/3.3%).

-CONTACT PERSON: Hideto Kono
State Energy Resources Coordinator
Department of Planning and Economic Development
P.O. Box 2359
Honolulu, Hawaii 96804

13) IDAHO: ($350,575) (March 22, 1982) Energy Extension Service funding for energy education, through demonstration projects ($37,605/10.7%); local matching funds for the Schools and Hospitals program (earlier $150,000 in federal funds was returned because no local matching funds were available) ($112,970/32.2%); and funds to supplement and expand the automation of state motor vehicle records to provide the capacity for an emergency fuel allocation system ($200,000/57.1%).

-CONTACT PERSON: Kenneth N. Green
Idaho Office of Energy
State Capitol
Boise, Idaho 83720
(208) 334-3800

14) INDIANA: ($12,975) (March 22, 1982) All the funds will be spent for residential energy audits of individuals who qualify for the weatherization program (865 audits/$15 per audit).

-CONTACT PERSON: Clarence D. Broadus
Director
Division of Energy Policy
Department of Commerce
State of Indiana
440 North Meriden Street
Indianapolis, Indiana 46204
(317) 232-8800

15) KANSAS: ($1,525) (March 22, 1982) Used to supplement existing ridesharing programs.

-CONTACT PERSON: Joseph E. King
Director
State Energy Office
214 W. 6th Street
Topeka, Kansas 88803
(913) 296-2496

16) KENTUCKY: ($1,063,450) (February 18, 1982). Synthetic fuels development ($300,000/28.2%); synfuels development research ($556,000/52.3%); alternative energy trust fund ($179,000/16.8%); and alternative transportation demonstration program emphasizing alcohol-fueled and electric cars ($30,100/2.8%)

-CONTACT PERSON: David Drake
Secretary
Kentucky Department of Energy
P.O. Box 11888
Iron Works Pike
Lexington, Kentucky 40578
(606) 252-5535

17) LOUISIANA: ($43,375) (March 22, 1982) The funds were designated for energy conservation or energy research office administration.

-CONTACT PERSON: Frank A. Ashby, Jr.
Secretary
Department of Natural Resources
State of Louisiana
P.O. box 44396
Baton Rouge, Louisiana 70804
(504) 342-4600

18) MAINE: ($166,425) (February 11, 1982) Funds are being used for road improvement projects ($86,541/52%); and instruction in conservation techniques for 500 persons including weatherization of 40-50 homes as on-site training. This program is not just for low-income people, with homes selected through a lottery ($79,884/48%).

-CONTACT PERSON: Nancy Wentzel
State of Maine, Executive Department
Office of Energy Resources
State House Station 53
Augusta, Maine 04333
(207) 289-3811

19) MARYLAND: ($52,225) (April 2, 1982) The funds will support expansion of the Driver Energy Conservation Awareness Training program (DECAT) which is run by the State Police and will train high school driver education instructors in energy conservation techniques.

-CONTACT PERSON: Donald E. Milsten Larry Williams
Maryland Energy Office
Suite 903
301 W. Preston St.
Baltimore, Maryland 21201
(301) 383-6889

20) MASSACHUSETTS: ($341,000) (December 9, 1981) An innovative program has been funded involving weatherization and energy-savings for multi-family rental buildings under the direction of the Citizens Energy Corporation. This program is designed to encourage building owners to weatherize and to pass the savings on to the tenants in order to encourage tenants to conserve as well. The program is targeted to dwellings in low-income neighborhoods. This is a five-part program which will include energy audits, installation supervision, conservation loan guarantees, conservation education, and tenant rebates. The incentive for the landlord is that the five year loan repayment and other associated costs will equal what the fuel costs would have otherwise been without the program.

-CONTACT PERSON: Louis Murray/Francis Smith
CCC
122 Bowdoin Street
Boston, Massachusetts 02108
(617) 227-2320

-STATE CONTACT: Haskell Werlin
Executive Office of Energy Resources
Commonwealth of Massachusetts
73 Fremont Street
Boston, Massachusetts 02108
(617) 727-5064

21) MICHIGAN: ($4,550) (March 22, 1982) All the funds will be used for ridesharing programs.

-CONTACT PERSON: Joann E. Neuroth
Acting Director
Energy Administration
State of Michigan
P.O. Box 30228
Lansing, Michigan 48909
(517) 373-9090

22) MISSISSIPPI: ($807,725) (March 22, 1982) The funds will be used to establish a statewide energy data base, as well as a energy management and procurement plan for all state agencies. They will also do an economic evaluation of all renewable and non-renewable energy alternatives.

-CONTACT PERSON: Wilbur G. Ball
Executive Director
Department of Energy and Transportation
Watkins Building
510 George Street
Jackson, Mississippi 39202
(601) 965-4733

23) MONTANA: ($81,875) (March 22, 1982) Four grants will be awarded to each of four cities for conservation retrofits and automobile retrofits from gasoline to propane ($40,000/48.9%); funding for studying conservation programs for state-owned buildings ($17,000/20.8%); and funding for conservation research ($24,875/30.4%).

-CONTACT PERSON: Leo Berry
Director
Department of Natural Resources
and Conservation
32 S. Ewing
Helena, Montana 59620
(406) 449-3780

24) NEBRASKA: ($28,425) (1/29/82) Funds will be used for the first Independence Day Alternate Fuel Classic on July 4, 1982, a 150 mile car race to provide exposure for alternative fuels technology.

-CONTACT PERSON: V. B. Balok
State of Nebraska
Energy Office
Box 95085
Lincoln, Nebraska 68509
(402) 471-2867

25) NEVADA: ($425,800) (April 12, 1982) Awaiting legislative action.

26) NEW HAMPSHIRE: ($32,575) (March 22, 1982) The funds will be used for energy conservation equipment installation, specifically repair or replacement of inoperable, unsafe, or inefficient oil burners for low-income elderly persons.

-CONTACT PERSON: Fred A. Seigel
Director
Governor's Council on Energy
2 1/2 Beacon Street
Concord, New Hampshire 03301
(603) 271-2711

27) NEW JERSEY: ($709,475) (March 22, 1982) All the funds will be used to repair a bridge over the Passaic River on Route 3.

-CONTACT PERSON: Leonard Coleman
Commissioner
New Jersey Department of Energy
101 Commerce Street
Newark, New Jersey 07102
(201) 648-3290

28) NEW MEXICO: ($499,000) (February 16, 1982) To fund energy conservation capital modifications for local government buildings.

-CONTACT PERSON: Larry Kehoe
Secretary
State of New Mexico
Energy and Minerals Department
P.O. Box 2770
113 Washington Avenue
Sante Fe, New Mexico 87501
(505) 827-2471

29) NEW YORK: ($881,675) No information available.

-CONTACT PERSON: James L. Larocca
Commissioner, N.Y. State Energy Office
2 Rockefeller Plaza
Albany, N.Y. 12223
(518) 474-2121

30) NORTH CAROLINA: ($150) (March 22, 1982) Funds to be used for energy conservation programs and administration.

-CONTACT PERSON: Carson D. Culbreath
Acting Director
Energy Division
N.C. Department of Commerce
430 N. Salisbury Street
Raleigh, North Carolina 27611
(919) 733-2230

31) OHIO: ($33,525) (April 2, 1982) The funds will be used to supplement an unspecified variety of state energy programs.

-CONTACT PERSON: Robert B. Cooper
Ohio Department of Energy
30 East Broad Street
34th Floor
Columbus, Ohio 43215
(614) 466-1088

32) OREGON: ($1,063,050) (April 1, 1982) Portland Energy Conservation Center, energy information and referral service ($67,000/6.3%); state building conservation retrofits ($321,903/30/3%); Oregon Energy Extension Service ($200,000/18.8%); energy audits and weatherization program targeted to oil heat customers in the residential, commercial, and industrial sectors ($253,120/23.8%); and renewable resource development, including alcohol fuels development and hydroelectric program ($221,027/20.8%).

-CONTACT PERSON: Michael Grainey
Deputy Director
Oregon Department of Energy
102 Labor and Industries Building
Salem, Oregon 97310
(503) 378-4040

33) PENNSYLVANIA: ($242,000) (November 20, 1981) Development of a least-cost energy strategy for Pennsylvania and later demonstration program for technologies to achieve this objective ($142,000/58.7%); and a project involving oil burner furnace efficiency improvements in multi-family apartment buildings including tenant rebates to encourage conservation for low-income persons ($100,000/41.3%).

-CONTACT PERSON: Robert A. Shinn
Executive Director
Governor's Energy Council
P.O. Box 8010
Commonwealth of Pennsylvania
Harrisburg, Pennsylvania 17105
(717) 783-8610

34) SOUTH CAROLINA: ($60,900) (April 5, 1982) All funds will be used for ridesharing programs.

-CONTACT PERSON: Kelly Smith
Director, Division of Energy Resources
SCN Center
1122 Lady Street
Columbia, South Carolina 29201
(803) 758-7502

35) SOUTH DAKOTA: ($175) No information available.

36) TENNESSEE: ($157,025) (March 22, 1982) Demonstration of state employee vanpool program involving the purchase of 14 commuter vans for $11,000 each.

-CONTACT PERSON: Lee Munz
Executive Director
Tennessee Energy Authority
Suite 707
Capitol Boulevard Building
Nashville, Tennessee 37219
(615) 741-2994/1772

37) TEXAS: ($617,275) (April 2, 1982) No action has been taken, and none will be taken this year because the funds must be appropriated by the state legislature which does not meet this year. The funds are presently being held in an interest bearing account.

-CONTACT PERSON: John Gooding
Legal Counsel
Texas Energy and Natural Resources
Advisory council
200 E. 18th Street
Austin, Texas 78701
(512) 475-0414

38) UTAH: ($420,025) (March 22, 1982) Drivers education conservation awareness training and employer-based ridesharing ($69,025/16.4%); building conservation program, including audits, workshops, technical assistance, and a state building conservation program ($115,000/27.4%); Energy Conservation Office administration, including maintenance of an energy telephone "factline" and energy fairs ($75,000/17.9%); airport maintenance and improvement ($86,000/20.5%) and Energy Office Administration ($75,000/17.9%).

-CONTACT PERSON: James M. Byrne
Utah Energy Office
3266 State Office Building
Salt Lake City, Utah 84114
(801) 533-5424

39) VERMONT: ($10,300) (March 22, 1982) Home Energy Audit Teams/Energy Extension Service Program to provide residential energy audits, in this case targeted specifically for the low-income elderly in what is known as the HEAT II program.

-CONTACT PERSON: Margaret P. Garland
Director, Vermont Energy Office
Montpelier, Vermont 05602
(802) 828-2393

40) VIRGINIA: ($1,725) (March 22, 1982) These funds will be used to support energy conservation and educational programs, and additional distribution of a booklet called, "Shall we Burn Coal", in order to assist with decisions involving fuel conversion.

-CONTACT PERSON: H. Kim Anderson
State Coordinator
State Office of Emergency and Energy Services
Commonwealth of Virgir a
310 Turner Road
Richmond, Virginia 23225
(804) 323-2899

41) WASHINGTON: ($1,349,625) (December 24, 1981) Oil heat retrofit project for low income people ($200,000/14.8%); boiler efficiency improvement program workshops for industrial, commercial, and ins.itutional boiler users ($126,000/9.3%): ridesharing ($95,625/7.1%); petroleum products contingency planning ($186,000/13.8%); Other transportation programs (55%)-local transportation contingency planning ($130,000); Autotherm (heating of police cars without engine running) ($30,000); vanpools expansion ($160,000); state airport development ($60,000); transportation productivity assessment ($30,000); traffic signals synchronization ($30,000); development of Park-and-Pool-It Lots ($80,000); development of Park-and-Ride Lots ($180,000); and parking facilities at ferry terminals ($42,000).

-CONTACT PERSON: Dave Sjoding
Assistant Director
Washington State Energy Office
400 E. Union, 1st Floor, ER-11
Olympia, Washington 98504
(206) 754-0700

42) WEST VIRGINIA: ($2,050) (March 22, 1982) These funds will be used to purchase flow scan meters for state police cruisers, in order to instruct police in energy efficient driving techniques.

-CONTACT PERSON: John F. Herholdt, Jr.
Manager
West Virginia Fuel and Energy Office
Governor's Office of Economic and Community Development
Charleston, West Virginia 25305
(304) 348-8860

43) WYOMING: ($110,050) (March 22, 1982) The funds will be used for a bridge repair project on Interstate 80 at Sinclair, administered by the state Department of Transportation.

-CONTACT PERSON: Pat Krueger
Wyoming Executive Department
State of Wyoming
Capitol Hill Office Building
Cheyenne, Wyoming 82002

STATE ENERGY OFFICE: Pamela Abel
State Energy Conservation Office
Capitol Hill Office Building
Cheyenne, Wyoming 82002
(307) 777-7131

44) AMERICAN SAMOA: ($80,025) (March 22, 1932) Funds used for energy assistance programs and energy conservation office, and administration.

-CONTACT PERSON: Peter T. Coleman
Governor
American Samoa
Pago Pago, American Samoa 96799

45) GUAM: ($3,550) (March 22, 1982) Funds used for energy office administration.

-CONTACT PERSON: Jay L. Lather
Guam Energy Office
Government of Guam
Agana, Guam 96910

46) PUERTO RICO: ($161,925) (March 22, 1982) Improvement of existing state roads.

-CONTACT PERSON: Carmen Ana Culpeper
Acting Secretary of the Treasury
Commonwealth of Puerto Rico
Box 4515
San Juan, Puerto Rico 00905
(809) 721-2020

QUESTIONS FROM SENATOR JOHNSTON

Question 11: How much of the money in the settlement could be spent on attorney's fees? I understand this amount could be as much as $50 million (5% of $1 billion)? Does this seem reasonable to you?

Answer: The States cannot expend $50 million for attorneys fees. The agreement does not permit such an expenditure for attorneys fees. This interpretation is confirmed by the Judge's Order in the Stripper Well case concerning administrative expenses and attorneys fees. He said:

> "The administration of the proposed settlement will entail a great deal of management and accounting expenses. Furthermore, a number of safeguards contained in the agreement will prevent any possible excesses. The amount of administrative expenditures the states are permitted to make are subject to legislative and regulatory caps or to limit of five percent of the funds allocated to the States . . . . Thus, the States' fee requests are reasonable in terms of the percentage they represent of the total overcharges . . . .
>
> The attorneys general must file with the disbursing officials written notices of the amounts and manner of direct disbursements for payments or reimbursement of litigation expenses . . . .
>
> Prior to the expenditure of any funds or payments permissible under the agreement, the States must submit reports to the Court and the Secretary of Energy identifying the programs or payments for which funds will be expended . . . .
>
> Thus the Court interprets this provision as authorizing Court oversight of the expenditures for administrative and attorneys fees . . . ."

QUESTIONS FROM SENATOR JOHNSTON

Question 12: What is your estimate of the amounts that would be returned to the U.S. Treasury in each of the next five fiscal years by legislation that ratified the Stripper Well settlement and recaptured for the U.S. Treasury all oil overcharge moneys not covered by that settlement and not claimed by persons who can document the overcharges they paid?

Answer: The Settlement Agreement addresses all funds collected in the Stripper Well Litigation and in other crude oil cases. We have calculated the remaining overcharge funds to be recovered from the remaining cases to be approximately $4.5 billion. The intervenors in the Stripper Well case will receive approximately $525 million. Of the remaining funds, I estimated, in response to your sixth question, that the Treasury will receive approximately $295 million in FY 86. In FY 87 $750 million, in FY 88 $540 million, FY 89 $260 million.

QUESTIONS FROM SENATOR JOHNSTON

Question 13: What are your corresponding estimates for legislation that captures for the U.S. Treasury all funds not distributed to the States under the Stripper Well settlement by September 1, 1986, and all future overcharge moneys not claimed by persons who can document the overcharge they paid?

Answer: An amount of something less than $960 million. At this time we do not have a breakdown of when those funds would be available for distribution due to uncertainties of litigation and processing of individual claims.

QUESTIONS FROM SENATOR DOMENICI

Question 1: The FERC has approved various different rate structures in different situations, whereby imported gas prices are divided between the price shown for the commodity and some of the price is hidden in what is called the demand charge. Competing domestic gas thus appears to cost more because they have not been allowed to hide some of the commodity costs in the demand charges. As a result, public utility commissions, in setting rules for what gas should be taken by local distribution companies, can easily bias the system towards imported gas because it looks cheaper. It seems to me that the ERA, while not having the authority to approve such rate structures, should certainly consider if such a strange rate structure is truly in the public's interest. Would you please provide comments?

Answer: Most domestic pipelines have a two-part price composed of a demand charge, which covers some portion of the fixed costs of operating the pipeline, and a commodity charge which contains the remainder of the fixed costs and the cost of gas purchased from producers. As local distribution companies must pay demand charges regardless of the amount of gas they purchase, assuming they are firm customers of the pipeline, the commodity charge is sometimes used to compare the cost of gas from different sources of supply. However, other factors such as total price, the need to protect a supplying pipeline's viability, and future needs are also considered by purchasers and their local regulatory agencies in selecting gas supplies.

The Department's position is that rate structures that properly allocate costs, such as the type of

two-part rates used in Canadian import contracts, promote efficient gas use. Critics of the Canadian two-part rates have maintained that their demand charges contain fixed costs that would not be allowed to be included in a domestic pipeline's demand charge. It is the Department's position that as long as Canadian gas costs are treated in a manner reasonably analogous to domestic gas costs, they should be allowed to be passed through. The FERC, which has jurisdiction over the individual cost components of two-part rates, has not taken final action on any of the Canadian cases. However, in a recent Initial Decision on one of these cases, a FERC Administrative Law Judge found that most of the costs in the demand charge were "clearly fixed costs," and that the arrangement as a whole was reasonable.

QUESTIONS FROM SENATOR DOMENICI

Question: The Case Study in Purchase of Domestic Versus Canadian Gas Supply describes competition in Pacific Gas and Electric's (PG&E) California markets between Canadian gas supplied by the Pacific Gas Transmission Company (PGT) and domestic gas supplied by the El Paso Natural Gas Company (El Paso). PGT is a wholly-owned affiliate of PG&E. According to the case study, effective April 1, 1986, PG&E switched the purchase of 80,000 Mcf per day of natural gas from El Paso to PGT based on PGT's lower price of $2.68 per MMBtu as compared to El Paso's price of $2.75 per MMBtu. El Paso contends that PG&E did not give it full opportunity to compete for this business. The case study also indicates that the gas purchase switch deviated from the California Public Utilities Commission's (CPUC) gas purchase sequencing policy under which PG&E has historically purchased longterm gas supplies on a pro rata basis from PGT and El Paso so long as the average prices of El Paso's and PGT's gas are within 10 cents per MMBtu of each other. This case study asks whether the switch in gas purchases by PG&E was the result of price competition permitted by the CPUC's policy or the result of preferential treatment of PG&E's affiliate, PGT and Canadian gas, in violation of the CPUC's purchasing policy.

Answer: With respect to the contention that PG&E did not give El Paso full opportunity to compete for this business, the record appears otherwise. In PG&E's letter of March 3, 1986, attached to the case study, PG&E gave El Paso the opportunity to lower its price to retain the business but El Paso's price reduction was inadequate.

With respect to whether the switch in PG&E's gas purchases was the result of price competition or preferential treatment, we believe the facts make it

clear that it was price competition. PG&E is a California local distribution company regulated by the CPUC, which regulates the gas purchase sequencing practices of public utilities in California. Local distribution companies (utilities) and intrastate pipelines are appropriately regulated at the State rather than the Federal level. Thus, this matter lies within the jurisdiction of the CPUC. The ERA has no authority to regulate how the CPUC implements its policies or to second-guess how state-regulated utilities should purchase gas.

As we understand the CPUC's gas purchase sequencing policy, utilities under its jurisdiction, including PG&E, are required to purchase a fixed percentage of gas contracted for from each of their gas suppliers. "Discretionary" purchases above the fixed percentage level may also be purchased on a pro rata basis if the prices are within a 10 cent per MMBtu window of each other. The CPUC policy, however, does not prohibit California utilities from purchasing the cheaper gas under these circumstances. Accordingly, PG&E does not appear to have violated any CPUC policy. Whether PG&E gave El Paso a full opportunity to lower its price to prevent the gas purchase switch to PGT is a question of fact to be resolved by the CPUC. On the surface, based upon trade press reports and the PG&E

letter attached to the case study, it appears that El Paso was given the opportunity to lower its prices first, before PG&E turned to PGT.

Apparently what we are seeing here is keen competition in California fuel supply markets. PG&E states that it switched to the lower-priced Canadian gas to get the advantage of the 7 cents per MMBtu in price in order to prevent its industrial customers from switching to distillate fuel oil or residual fuel oil, the price of which has dropped sharply with the decline in world oil prices. As a result of such competition, El Paso, on June 30, 1986, reduced gas prices to its customers by 25 cents per MMBtu, resulting in a delivered price to PG&E of about $2.50 per MMBtu. In response to El Paso's price reduction, on July 8, 1986, PGT reduced its gas price by 17 cents per MMBtu, to remain competitive with the delivered cost of the El Paso gas supply. Notwithstanding this reduction by PGT, effective July 3, 1986, PG&E shifted the 80,000 Mcf per day purchase back to El Paso as a result of El Paso's price reduction, since the prices are now approximately equal.

QUESTION FROM SENATOR FORD

Question: Does the Administration (or you) have any view as to the constitutional limitations on Congress' authority to legislate an oil overcharge settlement? For example, many believe that once a court renders a final judicial decree in a case distributing oil overcharge funds then legislation enacted to render a different result would probably be unconstitutional as a violation of the separation of powers. What do you think?

Answer: The case law suggests that the constitutional requirements of separation of powers and due process may well preclude the enactments of legislation from altering the result in a judicial proceeding after a final judgment has been entered. See, e.g., Daylo v. Administrator of Veterans' Affairs, 501 F.2d 811, 816 (D.C. Cir. 1974); Hodges v. Snyder, 261 U.S. 600 (1923); McCullogh v. Virginia, 172 U.S. 102 (1898).

Department of Energy
Washington, DC 20585

July 22, 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Chairman McClure:

Enclosed are my responses to the additional follow-up questions submitted by Senator Johnston for the record after my confirmation hearing on July 15, 1986.

Should you or other members of the Committee have any additional questions, I will be available to respond.

Sincerely yours,

Marshall A. Staunton

Marshall A. Staunton
Acting Administrator
Economic Regulatory Administration

Enclosure

ADDITIONAL

POST-HEARING QUESTIONS AND ANSWERS

Relating to The

JULY 15, 1986, CONFIRMATION HEARING

of

MARSHALL A. STAUNTON

NOMINEE FOR THE POSITION OF

ADMINISTRATOR OF THE
ECONOMIC REGULATORY ADMINISTRATION

U.S. DEPARTMENT OF ENERGY

Before The

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

SUPPLEMENTAL QUESTIONS FROM SENATOR JOHNSTON

QUESTION 1 - What is the practice of the Department regarding the joinder of individuals in civil enforcement proceedings?

ANSWER 1

The policy of DOE is to seek restitution of overcharges. Where a DOE audit indicates that a corporate seller of petroleum products may be defunct, bankrupt, or otherwise unable to satisfy a claim for restitution, it has been DOE's general practice in civil enforcement proceedings to name or join the principals involved in the corporation in addition to the corporation itself, where it appears that the principals participated in the transactions or practices alleged to be in violation of DOE regulations or personally received a portion of the unlawful corporate revenues. This helps to achieve full restitution of the overcharges to the maximum extent possible.

SUPPLEMENTAL QUESTIONS FROM SENATOR JOHNSTON

QUESTION 2 - Upon what authority does the Department rely on such joinders?

ANSWER 2

DOE proceeds against individuals for price violations in transactions conducted in the name of a corporation under well-established legal principles. Individuals may be found personally liable under (a) the doctrine of piercing the corporate veil, (b) the rule that corporate owners, officers or agents are liable for their own tortious conduct even if the corporation is also liable, and (c) the trust fund doctrine, under which a shareholder is liable for claims against a dissolved corporation to the extent that corporate assets have been distributed to him. The first two of these three alternatives were recently approved and applied by the Temporary Emergency Court of Appeals in a DOE enforcement case, United States v. Sutton, (TECA June 11, 1986), Fed. Energy Guidelines ¶ 26,560, in holding an individual personally liable for violation of DOE regulations. In that case, Robert Sutton and his four corporations were held jointly and severally liable for over $200 million for miscertification of crude oil sold through one or more of the Sutton corporations. Authority for application of the third alternative, the trust fund doctrine, in claims by the United States may be found in Pierce v. United States, 255 U.S. 398 (1920); United States v. Thomas, 515 F. Supp. 1351 (W.D. Tex. 1981).

SUPPLEMENTAL QUESTIONS FROM SENATOR JOHNSTON

QUESTION 3 - In how many instances have individuals been joined?

ANSWER 3

DOE has named or joined individuals principally in the area of crude oil resellers, where there has been a high incidence of corporate closure and petitions in bankruptcy. Of the approximately 70 crude oil reseller cases currently being litigated in administrative enforcement proceedings, there are 45 cases in which one or more individuals are named as parties liable for the violations alleged.

July 28, 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D. C. 20510

Dear Chairman McClure:

Enclosed are my responses to the additional follow-up questions submitted by Senator Domenici for the record after my confirmation hearing on July 15, 1986.

Should you or other members of the Committee have any additional questions, I will be available to respond.

Sincerely yours,

Marshall A. Staunton

Marshall A. Staunton
Acting Administrator
Economic Regulatory Administration

Enclosure

ADDITIONAL

POST-HEARING QUESTIONS AND ANSWERS

Relating to The

JULY 15, 1986, CONFIRMATION HEARING

of

MARSHALL STAUNTON

NOMINEE FOR THE POSITION OF

ADMINISTRATOR OF THE
ECONOMIC REGULATORY ADMINISTRATION

U.S. DEPARTMENT OF ENERGY

Before The

COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

QUESTIONS FROM SENATOR DOMENICI -- SUPPLEMENTAL ANSWER

Question 1: What are your thoughts on ERA's authority to review action taken by a distribution company in the case study which gives the assurance of preferential treatment to Canadian gas over U.S. gas.

Answer: ERA regulates the import and export of natural gas. The primary criteria in deciding whether to grant or deny an authorization is whether the contract is competitive. Regulation of the downstream purchase is properly the responsibility of the state and not the federal government.

In this case study there is an allegation that the contracting procedure was anticompetitive. ERA has the authority to examine the circumstances in more detail, and will where such issue is presented.

Question 2: Does ERA have the authority to look at the structure of the demand and commodity charges of Canadian gas and determine whether producer costs are inappropriately included in the demand portion.

Answer: Yes, we have the authority. I will look at purchase contracts that contain demand/commodity changes as a part of my review of all import application cases.

24129 Hillview Drive
Los Altos Hills, CA 94022
July 18, 1986

Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

Following the April 26 hearing before the Committee on Energy and Natural Resources on my nomination to the position of Assistant Secretary for Nuclear Energy of the Department of Energy, the Committee sent me two questions from the Ranking Minority Member to be answered for the record. The answers to those questions are enclosed. I have taken the liberty of forwarding a copy of the responses directly to Senator Johnston.

I appreciate the many courtesies that you and the members of the Committee and its staff extended to me at the hearing and look forward to working with the Committee, should my nomination be confirmed by the Senate.

I would be pleased to meet with you and the Staff in the future to discuss these and other matters of interest.

Sincerely,

A. David Rossin

Enclosure

cc w/enclosure
Honorable J. Bennett Johnston
Ranking Minority Member

POST-HEARING QUESTIONS AND ANSWERS

RELATING TO THE

JULY 15, 1986, CONFIRMATION HEARING

OF

A. DAVID ROSSIN

NOMINEE FOR ASSISTANT SECRETARY FOR NUCLEAR ENERGY

DEPARTMENT OF ENERGY

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

QUESTIONS FROM SENATOR J. BENNETT JOHNSTON

R&D Priorities

Question : Many people believe that the highest priority for the nuclear industry should be the development of a reactor the public will accept. Put another way, it is difficult to believe that new nuclear plants will be accepted by the public if the design can be described as "just like those reactors that were so much trouble in the 1970's and early 1980's."

What is DOE doing to insure that, when electricity demand growth calls for more power plants, the nuclear industry will have a better product to offer than the one offered in the 1970's?

Do you agree that DOE has a role in developing this product? If so, what is that role? How does the President's budget request fulfill the role?

Describe the reactor that you think should be offered to utility consumers in the 1990's. Be as specific as you can about the characteristics of the reactor. Describe how the President's budget request for DOE nuclear R&D programs furthers the development of this reactor.

Answer: When utilities need new power plants, they will consider nuclear power only if they are confident that a design has been licensed (or certified) for safety. They will have to be confident that such a plant can be built on a realistic schedule, without unexpected delays for non-safety reasons, and then placed in operation when completed as designed. This applies across the board; to small reactors, large reactors, modular concepts and innovative designs.

Answer (continued): The public in the U.S. and most other nations accept today's nuclear power plants. There are critics, of course, and in some instances political opposition has stopped nuclear plants. However, it must be kept in mind that despite all the criticism, licensed nuclear power plants have an outstanding safety record compared with any other technology of its size and importance.

The next new plant order in the U.S. is likely to be based on light water reactor technology, while simplifying and improving upon today's plants. Safety systems, in particular, can be simplified, and some passive features are under consideration which could make plants even safer.

As a prudent part of the Nation's energy supply base, development of alternatives should be pursued. Smaller reactors or modular reactors can be developed and certified for safety, offering utilities a competing option in the next decade. That would certainly be valuable for the Nation.

This research needs DOE cooperation and support. The lead time for return on investment and the size of the R&D investment itself put it out of reach for private industry alone. In cooperation with an active DOE program, however,

Answer (continued): industry and the utilities (through EPRI) can justify commitments of resources. The combination, along with international cooperation where appropriate, could succeed in developing viable plant design alternatives.

The FY 87 budget includes $18M for advanced LWR work and $49.5M for advanced power reactor work on LMR, gas-cooled, and modular designs. (The facilities budget is $131.3M for FY 87.)

QUESTIONS FROM SENATOR J. BENNETT JOHNSTON

Star Wars

Question : What relevance to civilian nuclear power is the research proposed for DOE into power sources for Star Wars?

Why should the DOE civilian budget support an essentially military research effort? Isn't the DOE defense programs budget large enough to support research for military missions without infringing on civilian programs?

How much of the President's proposed budget for civilian nuclear R&D is actually for a military purpose?

Answer: Nuclear power sources for SDI missions are vital to meet their high performance objectives. The experience and unique facilities available at DOE laboratories can solve the problems facing this high-priority national program.

Commercial nuclear power can benefit from technology transfer, particularly in areas like materials, corrosion, and cracking and failure research. High performance fuels work will be valuable as well.

However, the biggest national payoff from DOE's efforts may well be the application of civilian and government experience in safety design and analysis, quality assurance and recognition of competing design pressures to the SDI design problems.

Answer (continued): DOE is providing only a portion of the support for the defense nuclear power program. This cost sharing and coordination in program management is a sound way to achieve success in this effort.

DOE's FY 87 budget for defense and space power projects is $71.7M, up from $20.2M in FY 86. The funds designated for LWR and advanced civilian reactor programs are directed toward civilian projects. DOE's test facilities are effectively serving both military and civilian programs.

THEODORE J. GARRISH

1770 Preston Road
Alexandria, Virginia 22302

July 18, 1986

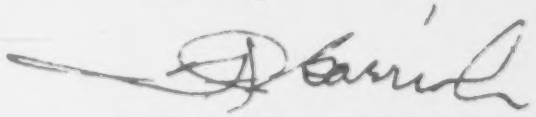
Honorable James A. McClure
Chairman, Committee on Energy
and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are my responses to questions submitted to me for the record after my confirmation hearing on July 15, 1986.

If you or other members of the Committee should have additional questions, I will be available to respond.

Sincerely,



Theodore J. Garrish

Enclosure

Questions from Senator Johnston 7/17/86

Question: The Office of the Federal Inspector was established as a separate, independent entity. What is the nature of its association now with the Department of Energy? Please provide a memorandum of law for our hearing record explaining the transfer of the OFI to DOE and citing the legal basis therefore.

Answer: The OFI continues today as a separate independent entity as envisioned by Reorganization Plan No. 1 of 1979, which created the office.

Because of reduced manpower requirements, it was determined, however, this past year that OFI responsibilities could be carried out for the time being more effectively and more cost-efficiently if administrative support services were provided by a Cabinet level department.

On October 11, 1985, the OFI entered into a Memorandum of Understanding with DOE under which DOE provides the administrative services required to asist OFI in carrying out its responsibilities.

The MOU provides for administrative, personnel, payrolling, financial reporting and accounting, budget, legal, contracting and other procurement, and support services to the OFI, pursuant to Section 601 of the Economy Act of 1932 (31 U.S.C. 1535). While support services are provided by DOE under this new arrangement, the OFI remains, as before, a separate, independent entity.

The duties of the OFI have in no way merged into DOE, nor have any of OFI's functional responsibilities been transferred to DOE under the MOU. A Memorandum of Law further explaining the basis for this arrangement is attached.

Question: As I see it, there is no prospect of building a natural gas pipeline from Prudhoe Bay to the Lower 48 States in the near, or even in the intermediate, future. Do you agree?

Answer: It is my opinion that the ANGTS will be needed in the future and that it will be built.

I believe that the decision to again commence ANGTS activities will be dictated by market conditions, including a renewed demand and need for Alaskan gas and other domestic energy economic considerations such as fuel prices and the level of available energy supplies in general.

It is possible that ANGTS remobilization activities could begin as early as the first half of the 1990's in light of the fact that pipeline construction will require significant lead time -- up to five or six years (even after project financing and government approvals have been secured).

Question: In light of the prospect for continued delay, don't you believe it would be appropriate for the Administration to evaluate the necessity of keeping the Federal Inspector apparatus in place? Even though your budget is small, we might be able to save a bit. Would you please commence such an evaluation, and look at the prospect of sending us whatever legislation is appropriate to conform the bureaucracy to the realities today in the natural gas marketplace and to provide for an appropriate mechanism to review the status of the office if progress is being made toward constructing Alaska segment of the ANGTS.

Answer: I believe that continuing the OFI and doing so at its present reduced level makes the best fiscal and managerial sense for a number of reasons. First, the project sponsors are continuing their operations for remobilization and the OFI is an important liaison to this activity. Second, the OFI is an ongoing contact for its Canadian counterpart, the Northern Pipeline Agency, as well as the relevant U.S. agencies. Issues also continue to arise concerning the prebuild position, which could affect the long-term prospects for the system. Third, continuing the OFI shows a specific commitment on the part of the United States for the system. Finally, while I share your concern over the need to save tax dollars, I believe that the OFI already recognizes today's budget realities at its reduced level without the necessity for additional legislation. Furthermore, maintaining the OFI at its current minimal level will save money in the long run by facilitating remobilization and maintaining existing accomplishments.

Department of Energy
Washington, DC 20585

July 21, 1986

MEMORANDUM TO: Theodore J. Garrish
Acting Federal Inspector,
Alaska Natural Gas Transportation System

FROM: J. Michael Farrell
General Counsel

SUBJECT: Status of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System

This memorandum is in response to your request for our opinion on the legal status of the Office of Federal Inspector, Alaska Natural Gas Transportation System (OFI) and its relationship to the United States Department of Energy (DOE). It is our opinion that the OFI is an independent entity within the executive branch under the control of, and subject to direction by, the Federal Inspector. Under current funding practices recently enacted by Congress, OFI's funds are attached to DOE's appropriations so that DOE can provide OFI with administrative support.

BACKGROUND:

Congress, in 1976, enacted the Alaska Natural Gas Transportation Act, Pub. L. No. 94-586, 15 U.S.C. §719 to expedite the construction and initial operation of a natural gas pipeline system that would bring Alaskan gas to the lower 48 states. Section 7(a)(5) of the Act authorized the President to appoint an independent officer of the United States to serve as the Federal Inspector to oversee the construction and operation of the transportation system. 15 U.S.C. §719e(a)(5). Pursuant to the Act, the President issued Reorganization Plan No. 1 of 1979 1/ and Executive Order

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1/ 44 Fed. Reg. 33663 (1979); 93 Stat. 1373 (1979).

12142 2/ which together created the Office of Federal Inspector, under control of the Federal Inspector, to be responsible for coordinating all Federal activities related to the pipeline project, and for assuring timely, efficient, and environmentally sound construction and operation of the system. OFI officially came into being on July 1, 1979.

The initial three years of OFI's existence marked its peak activity, in order to accommodate the expansion of project construction.3/ By 1983 OFI had cut back its staffing and workload plans to reflect the completion of major project activity.4/ Reduced level of project activity in subsequent years resulted in further staff reductions. In FY 1986, OFI and DOE signed a Memorandum of Agreement under which OFI receives most of its administrative support from DOE. This Memorandum of Agreement reflected the Congressional intent to have DOE provide administrative support to OFI by attaching OFI funding to DOE's appropriations, in order to facilitate the continued and varied flow of administrative support.

Legal Analysis:

Congress, in enacting the Alaska Natural Gas Transportation Act, supra, specifically provided the President with authority to appoint a single individual, to be called the Federal Inspector, to be responsible for assuring that the project be built as timely as possible, without excessive overruns, and meeting environmental concerns. 15 U.S.C. 719e(a)(5). The President did appoint such a Federal Inspector and provided by Executive Order that he head an independent entity, the OFI. The Order also established the specific responsibilities of that office. Until the enactment of the Department of Interior and Related Agencies Appropriation Act of FY 1986, Pub. L. No. 99-105, 5/ OFI had

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2/ June 21, 1979, 44 Fed. Reg. 36927 (1979).

3/ In 1980 OFI had opened field offices in Alaska, California and Nebraska. By 1981 OFI staff reached a peak of 159 full time employees.

4/ By the end of 1982 OFI had a staff of 101 employees; by September 30, 1983, only 26 employees remained. By 1985, OFI had a staff of 8 employees.

5/ Further Continuing Appropriation Act, FY 1985, 99 Stat. 1185 (Dec. 19, 1985). Section 101(d) of Pub. L. 99-190 incorporated in toto the FY 1986 Interior and Related Agencies Appropriation Act. 99 Stat. 1224.

received its funding through its own separate appropriation account.6/ In FY 1986, OFI's funds were specifically appropriated by Congress as a line item in DOE Fossil Energy Research and Development appropriation account. 99 Stat. 1252 (1975).7/

It is clear from the legislative history of the FY 1986 funding measure that Congress did not intend to make OFI a part of DOE by including its funds within DOE's fossil appropriation. The inclusion of OFI funds as a line item in the fossil account was intended to facilitate DOE assistance in providing administrative support to OFI; its independence as a separate entity would stay assured. The House in proposing the fossil account language provided in its report that:

> The Committee recommends that the Federal Inspector be attached to the Department of Energy, strictly for administrative purposes, as requested by the Administration.
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> * * * *
>
> The Administration is working toward attaching the Federal Inspector to the Department of Energy for administrative support purposes. The Committee strongly supports that action, particularly since it is estimated that it will reduce funding requirements to $535,000, a reduction of $329,000 from the budget request. Thus funds are included in the Committee's recommendation for fossil energy research and development, and are specifically identified for the Federal Inspector in the bill in order to assure continued independence of that position. H.R. Rep. No. 205, 99th Cong. 1st Sess. 80, 111 (emphasis added). See also, S. Rep. No. 141, 99th Cong. 1st Sess. 103.

Moreover, the legislative history of the FY 1986 appropriation measure did not indicate any intent on the part of Congress, in appropriating OFI funds through DOE, to repeal the substantive law providing for the establishment of an independent executive branch officer acting as the Federal Inspector (section 7 of the

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6/ See, e.g., Pub. L. No. 98-473, 98 Stat. 473 (1984); Pub L. 98-146, 97 Stat. 950 (1983).

7/ "For necessary expenses in carring out fossil energy research and development activities,...of which $535,000 is for functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586...."

Alaska Natural Gas Transportation Act). The change in OFI's appropriation, therefore, can not be viewed as an implied repeal of section 7. Cf. Tennessee Valley Authority v. Hill, 437 U.S. 153, 191 (1978).

CONCLUSION:

We are, therefore, of the opinion that OFI remains an independent office, separate and distinct from DOE. DOE relationship to OFI is set out strictly in a Memorandum of Understanding under which DOE provides administrative support to OFI and is reimbursed through OFI's line item appropriation in the Fossil Energy appropriation account.

Post-Hearing Questions and Answers relating to the Confirmation Hearing of Dr. Richard H. Francis, Nominee for President of the Solar Energy and Energy Conservation Bank

Answers to Questions from the Honorable J. Bennett Johnston, Senate Committee on Energy and Natural Resources

1. Dr. Francis, Congress appropriated no funds for the Bank in FY 86 and you are now operating on prior year appropriations, are you not? When will the Bank run out of funds if no further appropriations are made? What happens if the Bank does run out of funds? Did the Administration request funding for FY 1986?

No additional funding was requested by the Administration for the Bank in FY 1986 and no funds were appropriated by Congress. Of the $81.85 million appropriated for FYs 82-85, $35.2 million was disbursed through FY 1985. We estimate an additional $36 million will be disbursed during FY 1986, with the majority of the remaining available funds being disbursed by July, 1987. If no further funds are appropriated by Congress, upon the disbursement of the remaining funds the Bank would implement final close-out procedures. The program would thus be terminated upon the expiration of the Bank's authorization on September 30, 1987.

2. Do you anticipate that Congress will appropriate funds in FY 1987 for the Bank? Did the Administration request any funds for FY 1987?

The Administration did not request any funds for FY 1987. While no funds were appropriated for FY 1986 and the statute terminates the Bank on September 30, 1987, the final decision is up to Congress as to whether to appropriate additional funds and authorize additional activities.

3. Why, then, under these circumstances are you seeking confirmation as the President of the Bank? Do you think the Bank could effectively use funds in FY 1987, if funds were appropriated?

Although my confirmation as President of the Bank probably will not materially change the manner in which the program is being operated, in my view my confirmation would provide continuity and stability to the program, and it would enable me to more effectively carry out my commitment to manage the Bank in a manner fully consistent with current policies. If funds were to be appropriated for FY 1987, I believe they could be used effectively by currently established State programs in a manner consistent with their prior year performances.

4. In your testimony before this Committee on February 23, 1984, you indicated that your personal recommendation was that the Bank not receive any funds and that it should go out of existence. What is your view today?

The Solar Bank was created by Title V of the Energy Security Act of 1980 as a short-term means to decrease the Nation's dependence on foreign energy supplies. I feel that I have contributed to achieving that goal through development of a broad-based program which has stimulated State and local governments to establish their own unique programs based on their specific energy-related needs and circumstances. To this end the Bank has achieved a high level of cooperation from the private sector resulting in millions of private dollars being leveraged with Federal funds for worthwhile energy conservation and solar energy projects.

I have always been committed to using all funds appropriated for the Bank in the most effective and efficient manner possible in accordance with current policies as long as Congress chooses to fund the program. As indicated, I believe the Bank has gone a long way toward achieving its original objectives. Rather than appropriating additional funds which would result in the continuation of the Bank beyond the statutory deadline, however, consideration should be given by Congress to consolidating the various energy programs to develop an even more efficient and effective way of addressing the Nation's energy needs, including those special aspects now being dealt with specifically by the Bank.

5. What do you see is the relative importance of energy conservation and solar energy given that oil prices have now plummeted?

The importance of energy conservation and solar energy is not changed by the current drop in oil prices, especially since this may or may not be an indicator of a long-term pricing trend. Many energy conservation measures make sense and are cost effective regardless of the price of oil. Solar energy is likewise feasible and environmentally positive in practical, cost-effective applications. Regardless of the status of oil prices, our society will continue to benefit from intelligent energy conservation and the utilization of solar energy.

6. According to your annual report a Federal judge ordered the Bank to reobligate $5.4 million in funds which the Bank had "recaptured" because the State participant had not used the Federal funds within the limited time provided. Apparently, the Bank recaptured the funds from the State, but instead of using those funds for the Bank's programs, the Bank tried to put the funds in the Treasury.

Why didn't you seek to use the recaptured funds for your programs in the first place?

The Bank's appropriations are available for obligation for a two-year period only. Since the appropriation term had expired for the funds recaptured, legal counsel advised that the funds were not available for reobligation and must be returned to the Treasury. The Bank felt it had no other alternative and did not attempt to reobligate the funds to the States. When a Federal judge ruled otherwise, however, the Bank did reobligate recaptured funds.

Answer to a Question presented by the Honorable James A. McClure, Chairman, Senate Committee on Energy and Natural Resources.

In looking at the Program Status Summary attached to your prepared statement, I notice that there are only a small number of projects for the categories multifamily solar, commercial conservaton and commercial solar. How many applications were there for these three categories?

As of December 31, 1985, the latest date for which data on the number of applicants is available, there were 40 applicants for multifamily solar, 242 applicants for commercial conservation, and 54 applicants for commercial solar. I might point out that the amount of funds obligated in these categories was established by only 20 of the participating states electing to have one or more of these categories included in their program.